

# ALABAMA BOARD OF POLYGRAPH EXAMINERS



## Rules and Regulations Alabama Laws Governing Polygraph Examiners



The Code of Alabama and the Rules and Regulations governing Polygraph Examiners in the State of Alabama were revised and upgraded during the 2016 regular session of the Alabama Legislature. The 2016 Polygraph Examiners Board was instrumental in effecting these changes.

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# **Ala. Board of Polygraph Examiners**

## **Rules and Regulations**



**ALABAMA BOARD OF POLYGRAPH EXAMINERS  
 RULES AND REGULATIONS  
 TABLE OF CONTENTS**

Page No.

**Chapter 740-X-1**

Rules .....		1-1
740-X-1-.01	Basics For These Rules and Regulations .....	1-1
740-X-1-.02	Petition For Adoption, Amendment Or Repeal Of A Rule .....	1-1
740-X-1-.03	Declaratory Rulings.....	1-2

**Chapter 740-X-2**

Board of Polygraph Examiner .....		2-1
740-X-2-.01	Board Membership.....	2-1
740-X-2-.02	Board Consultants .....	2-1
740-X-2-.03	Board Office .....	2-2
740-X-2-.04	Requests For Information.....	2-2

**Chapter 740-X-3**

Licenses .....		3-1
740-X-3-.01	Qualifications Of Examiners To Be Licensed .....	3-1
740-X-3-.02	Application For a License .....	3-2
740-X-3-.03	Board Review Of Original License Applications.....	3-2
740-X-3-.04	Apearance for Examination.....	3-3
740-X-3-.05	Written Examination And Interview .....	3-3
740-X-3-.06	Reciprocity Agreements .....	3-4
740-X-3-.07	License Years And Fees.....	3-4
740-X-3-.08	Temporary Licenses .....	3-5
740-X-3-.09	Bad Checks.....	3-5
740-X-3-.10	Fees for Governmental Examiners Who Apply For a Commercial License .....	3-5
740-X-3-.11	License Form And Identification.....	3-6
740-X-3-.12	License Is Not A License To Do Business .....	3-6
740-X-3-.13	Notification Of Change Of Address .....	3-6





740-X-3-.14	Bonds.....	3-7
740-X-3-.15	Notification Of Cancellation Or Discontinuance Surety Bond.....	3-7
740-X-3-.16	Continuing Education.....	3-7

**Chapter 740-X-4**

Internships.....	4-1	
740-X-4-.01	Internships License Program.....	4-1
740-X-4-.02	Governmental Interns.....	4-2

**Chapter 740-X-5**

Examinations.....	5-1	
740-X-5-.01	Proper Purpose of Polygraph Examinations.....	5-1
740-X-5-.02	Polygraph Examinations.....	5-1
740-X-5-.03	Incompetency Defined.....	5-1
740-X-5-.04	Unworthiness Defined.....	5-2

**Chapter 740-X-6**

Complaints.....	6-1	
740-X-6-.01	Complaints.....	6-1
740-X-6-.02	Proceedings On Complaints.....	6-3
740-X-6-.03	Inspection Of Records And Documents By the Board.....	6-3
740-X-6-.04	Preservation of Records And Documents.....	6-3
740-X-6-.05	Records In Board Possession.....	6-4

**Chapter 740-X-7**

Applicability.....	7-1	
740-X-7-.01	Applicability Of These Rules And Regulations.....	7-1



**ALABAMA BOARD OF POLYGRAPH EXAMINERS**  
**ADMINISTRATIVE CODE**  
**CHAPTER 740-X-1**  
**RULES**  
**TABLE OF CONTENTS**

<b>740-X-1-.01</b>	<b>Basis For These Rules And Regulations</b>
<b>740-X-1-.02</b>	<b>Petition For Adoption, Amendment Or Repeal Of A Rule</b>
<b>740-X-1-.03</b>	<b>Declaratory Rulings</b>

**740-X-1-.01**     **Basis For These Rules And Regulations.** These rules and regulations are based upon the Alabama Polygraph Examiners Act, which is contained in Code of Ala. 1975, §§ 34-24-1 through 34-25-36. The authority of the Alabama Board of Polygraph Examiners to issue these regulations is found in the general provisions of the act and in the specific provision of Code of Ala. 1975, §34-25-5(a), and in the Alabama Administrative Procedure Act, Code of Ala. 1975, §§ 41-22-1 through 41-22-27.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**740-X-1-.02**     **Petition For Adoption, Amendment Or Repeal Of A Rule.**

- (1) Any interested person may petition the Board requesting the adoption, amendment or repeal of a rule. The petition must be in writing and must include:
  - (a) The name and address of the petitioner.
  - (b) An exact statement of the proposed rule, amendment or identification of the rule to be repealed.
  - (c) The pertinent facts, data, opinions or arguments in support of the petitioner's position.
- (2) Within 60 days after the submission of a petition, the Board must initiate rule-making proceedings or must deny the petition in writing on its merits, stating reasons for denial.
- (3) A petition requesting the adoption, amendment, or repeal of a rule shall not be considered by the Board if the subject of the petition is the same as, or similar to, the subject presented in another petition considered by the Board within the previous 12 months.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984.

**740-X-1-.03**     **Declaratory Rulings.** Any person substantially affected by a rule may petition the Board for a declaratory ruling on whether a rule is valid or whether a rule or statute enforced by the Board is applicable to any person, property or state of facts or about the meaning and scope of any order of the Board.

- (a) The petition must be in writing and must include:
  - 1. The name and address of the petitioner.
  - 2. A statement of facts sufficient to show that the person seeking relief is substantially affected by the rule.
  - 3. The rule, statute or order and the reasons for the questions.
- (b) The petition will be considered and answered in writing by the Board within 45 days unless the Board is unable to reach a decision on the facts presented.
- (c) Circumstances in which rulings will not be issued include but are not necessarily limited to:
  - 1. Lack of jurisdiction,
  - 2. Lack of clarity concerning the issue presented,
  - 3. No clear answer determinable.
- (d) In the event the Board declines to issue a ruling, the petitioner must be notified in writing that the request for a declaratory ruling was denied and the reasons for denial must be specified.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984.

ALABAMA BOARD OF POLYGRAPH EXAMINERS  
ADMINISTRATIVE CODE

CHAPTER 740-X-2  
BOARD OF POLYGRAPH EXAMINERS

TABLE OF CONTENTS

740-X-2-.01     **Board Membership**  
740-X-2-.02     Board Consultants  
740-X-2-.03     Board Office  
740-X-2-.04     **Requests For Information**

740-X-2-.01     **Board Membership.**

- (1) The Board is made up of five members, each of whom:
  - (a) Must be a practicing polygraph examiner at the time of appointment,
  - (b) Must have been a practicing polygraph examiner for the four years immediately preceding appointment,
  - (c) Must have been a resident of the State of Alabama for the two years immediately preceding appointment, and
  - (d) Must be a citizen of the United States of America. (2) Two of the five Board members must be a commercial polygraph examiner. The remaining three Board members must be governmental law enforcement polygraph examiners.
- (3) No two Board members shall be employed by the same person or agency.
- (4) Board members are appointed to four-year terms. In appointing members to the board, the Governor shall select those persons whose appointments, to the extent possible, ensure that the membership of the board is inclusive and reflects the racial, gender, urban/rural, and economic diversity of the state.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975 , §§34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984. Amended: Filed November 6, 1991. Amended: Filed May 20, 2008; effective June 24, 2008. Amended: Filed July 30, 2009; effective September 3, 2009.

740-X-2-.02     **Board Consultants.**     Two consultants will be appointed to advise and assist the Board. One consultant must be an attorney licensed to practice law in this state and the other consultant must be a qualified psycholo-

gist or psychiatrist. Board consultants will be paid the same mileage and attendance fee as Board members.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984.

**740-X-2-.03**      **Board Office.** The Board's office is at Room A2-305, 301 South Ripley Avenue, Montgomery, Alabama. The Board's mailing address is P. O. Box 1511, Montgomery, Alabama 36102-1511. The Board's telephone number is (334) 517-2903. The Board's office hours are from 8 AM to 5 PM Monday through Friday except when state holidays fall on such days.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984. Amended: Filed November 6, 1991. Amended: Filed May 20, 2008; effective June 24, 2008.

**740-X-2-.04**      **Requests For Information.**      Requests for information may be made at the Board office by writing the Board or by contacting individual Board members.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984.

**ALABAMA BOARD OF POLYGRAPH EXAMINERS  
ADMINISTRATIVE CODE**

**CHAPTER 740-X-3  
LICENSES**

**TABLE OF CONTENTS**

740-X-3-.01	<b>Qualifications Of Examiners To Be Licensed</b>
740-X-3-.02	<b>Applications For A License</b>
740-X-3-.03	<b>Board Review Of Original License Applications</b>
740-X-3-.04	<b>Appearance For Examination</b>
740-X-3-.05	<b>Written Examination And Interview</b>
740-X-3-.06	<b>Reciprocity Agreements</b>
740-X-3-.07	<b>License Years And Fees</b>
740-X-3-.08	<b>Temporary Licenses</b>
740-X-3-.09	<b>Bad Checks</b>
740-X-3-.10	<b>Fees For Governmental And Commercial Examiners For A Commercial License</b>
740-X-3-.11	<b>License Form And Identification Card</b>
740-X-3-.12	<b>License Is Not A License To Do Business</b>
740-X-3-.13	<b>Notification Of Change Of Address</b>
740-X-3-.14	<b>Bonds</b>
740-X-3-.15	<b>Notification Of Cancellation Or Discontinuance Of Surety Bond</b>
740-X-3-.16	<b>Continuing Education</b>
740-X-3-.01	<b><u>Qualifications Of Examiners To Be Licensed.</u></b>

- (1) The qualifications which a person must possess in order to receive a license as a polygraph examiner are those which are set out in §34-25-21 of the act.
- (2) Pursuant to the authority vested in it by Code of Ala. 1975, §34-25-21(a)(6), the Board will approve those polygraph examiners' courses or schools which are fully accredited by the American Polygraph Association. The Board will either approve or disapprove unaccredited courses or schools on a case by case basis as the occasions arise.
- (3) The Board does not interpret the "five consecutive years of active investigative experience" referred to in §34-25-21(a)(5) of the act as requiring that the investigative experience necessarily be in the same position or for the same employer. However, as that provision of the statute makes clear, the five years active investigative experience must be immediately preceding the application. The Board will decide on a case by case basis any

questions that arise about whether an applicant's experience is "active investigative experience," and "immediately preceding" the application.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**740-X-3-.02**     **Applications For A License.** In order to be complete, all applications for a polygraph examiner's license must contain, with each application:

- (a) An application form, prescribed and supplied by the Board, completed by the applicant in writing under oath, with necessary supporting documents;
- (b) A personal or certified check, or a money order for the \$250.00 nonrefundable investigative fee;
- (c) Evidence that the applicant holds a baccalaureate degree from a college or university accredited by the Southern, Northern, Eastern or Western Association of Colleges and Schools, or recognized by the Board or in lieu thereof, evidence that the applicant has had five consecutive years of active investigative experience immediately preceding his application;
- (d) Evidence that the applicant has successfully completed a polygraph school or course approved by the Board;
- (e) Evidence that the applicant is covered by a surety bond or insurance policy in at least the amount of \$5000 and conditioned that the obligor therein will pay to the extent of the face amount of surety bond or insurance policy all judgments which may be recovered against the licensee by reason of any wrongful or illegal acts committed by him in the course of his examinations;
- (f) One complete fingerprint card and a current photograph; and
- (g) any other information which the Board may request from an individual applicant for the administration and enforcement of the Polygraph Examiners Act or the rules and regulations adopted by the Board.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981. Amended: Filed February 7, 1984.

**740-X-3-.03**     **Board Review Of Original License Applications.**

Applications will be treated in the following manner:

- (a) The Board will review each application at the Board's first meeting following receipt of the application.
- (b) If an application is incomplete or otherwise inadequate, the Board will no-



tify the applicant, and no other Board action will be taken until the application is complete. If an application is not completed within the six months following the Board's notice to the applicant, the application will be void.

- (c) If an application is complete and adequate, the Board will schedule the applicant for written examination and interview and notify the applicant of the date of the examination and interview.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

#### **740-X-3-.04      Appearance For Examination.**

- (1) It is the obligation of any applicant who is unable to attend a scheduled examination to notify the Board in advance.
- (2) Any applicant who fails to appear for the initially scheduled examination will be notified to appear at a second scheduled examination.
- (3) Failure, for any reason, to appear at the second scheduled examination will void the application. If the applicant thereafter desires to be considered for licensing, the applicant must submit another complete application.
- (4) A new application required by subsection (3) of this section must comply in all respects with Rule 740-X-3-.02 and must include a new investigative fee.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 1, 1981.

#### **740-X-3-.05      Written Examination And Interview.**

- (1) Except as provided in Rule 740-X-3-.06, before each applicant is licensed, that applicant must:
- (a) Submit to the Board the test data and results from a minimum of 10 examinations performed by the applicant;
- (b) Pass a written examination given by the Board; and
- (c) Undergo a personal interview in which his performance on the written examination will be discussed with him.
- (2) The examination will cover all aspects of polygraph and acceptable polygraph techniques. An applicant must score at least 75% on each portion of the written examination in order to pass. An applicant who fails to score 75% on a portion of the examination may retake that portion. An applicant who wishes to retake one or more portions must do so at either of the next

two regularly scheduled examination sessions. An applicant who fails to retake portions of the examination at either of the next two sessions must retake the entire examination.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

#### **740-X-3-.06      Reciprocity Agreements.**

- (1) Full reciprocity agreements, the privileges of which are available to all examinees licensed by reciprocal states, shall be governed by § 34-25-24 of the act.
- (2) The Board may enter into limited reciprocal agreements, the privileges of which are available only to qualified examinees licensed by reciprocal states. Qualified examinees are those who meet the minimum requirements of §34-25-21 of the act.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

#### **740-X-3-.07      License Years And Fees.**

- (1) The term of a polygraph examiner's license in Alabama runs from October 1 to September 30 of each year.
- (2) Applications for license renewal shall be made upon forms prescribed and supplied by the Board.
- (3) The application for renewal and the renewal license fee, which are provided for in §34-25-26(5) of the act, are delinquent after September 30 of each year, and unless the Board receives the renewal license application and the renewal fee on or before September 30, the license shall expire.
  - (a) A polygraph examiner whose license has expired may at any time within two months after the expiration obtain a renewal license, without examination or later penalty fee, by submitting a renewal application to the board and satisfying subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21. A polygraph examiner whose license has expired, and who does not apply for renewal within two months following expiration, may at any time within three to six months after the expiration obtain a renewal license, without examination, by paying a \$50.00 late penalty fee, submitting a renewal application to the board, and satisfying subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21.
- (4) The full amount of the renewal license fee is due in full for each October 1 to September 30 period or any portion thereof.

- (5) The full amount of the renewal license fee is due in full each year, regardless of what portion of the initial license year was covered by the original fee of \$250.00.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981. Amended: Filed July 30, 2009; effective September 3, 2009.

**740-X-3-.08**      **Temporary Licenses.** The secretary of the Board may issue an Intern polygraph examiner's license pending the Board's approval of the application at the next Board meeting. A Intern license may be issued only if the application is complete and ready for Board action.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981. Amended: Filed May 20, 2008; effective June 24, 2008.

**740-X-3-.09**      **Bad Checks.** A "bad check" is a check received by the Board from an applicant, intern, or examiner, which is returned to the Board unpaid for any reason. The following procedures will govern the receipt of bad checks by the Board:

- (a) If the check is from an applicant for an original examiner's license or from an applicant for an intern's license, the processing of the application will be discontinued indefinitely until the fee which the check was to cover is paid. After receipt of the initial bad check, no additional personal checks will be accepted for this payment and the payment must be by cashier's check, certified check, or money order.
- (b) If the bad check is from an examiner for renewal of his license, or from an intern for renewal of his internship license, receipt of the bad check shall immediately suspend the license. The license shall remain suspended until the renewal fee is paid. After receipt of the initial bad check, no additional personal check will be accepted for payment of this fee, and payment must be by cashier's check, certified check, or money order.
- (c) The secretary Of the Board shall notify an applicant, intern, or examiner whose bad check is received of the fact that the check was returned to the Board unpaid and of the effect which this event has on the application or renewal.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981. Amended: Filed February 7, 1984.

**740-X-3-.10**      **Fees For Governmental And Commercial Examiners.** All polygraph examiners licensed in the State of Alabama on October 1, 1991, will be exempt from the one time investigative fee and original licensing fee former-

ly required of governmental examiners entering private practice. The renewal license fee, provided for in Code of Ala. 1975, §34-25-26(5), shall be applicable to all examiners for each year thereafter.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed November 6, 1991.

Ed. Note: Previous rule 740-X-3-.10 "Fees for Governmental Examiners Who Apply for a Commercial License" filed October 8, 1981. Amended: Filed February 7, 1984. Repealed: Filed November 6, 1991.

#### **740-X-3-.11      License Form And Identification Card.**

- (1) The license form approved by the Board will contain the full name of the licensee, the date of issuance and expiration of the license, the seal of the Board, the document control number, and the signature of the members of the Board.
- (2) The Board will issue to each licensed polygraph examiner a pocket identification card verifying that he is licensed to perform polygraph examinations in Alabama.
- (3) It is the responsibility of each licensed polygraph examiner to prominently display his license form at his place of business. It is further the responsibility of each polygraph examiner to have his pocket identification card in his possession whenever he is conducting a polygraph examination, and to produce it when requested to do so by any person.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**740-X-3-.12      License Is Not A License To Do Business.** The polygraph examiner's license is issued by the Board as a determination of the professional qualifications of the licensee. It is not a license to do business, and it does not relieve the examiner of the obligation to comply with state and local business license requirements.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**740-X-3-.13      Notification Of Change Of Address.** It is the duty of each intern and examiner to properly notify the Board of any change in his mailing address.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**740-X-3-.14**      **Bonds.** Every polygraph examiner, whether a commercial examiner or a governmental examiner, must be insured or bonded as an individual in an amount to be determined by the Board and proof that an examiner has such a bond or insurance must be presented to the Board with that examiner's application for a license.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984. Amended: Filed November 6, 1991.

**740-X-3-.15**      **Notification Of Cancellation Or Discontinuance Of Surety Bond.** It is the duty of an examiner to immediately notify the Board if his surety bond, which is required by §34-25-21(b) of the act, has been or is to be cancelled or discontinued or changed in any way.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**740-X-3-.16**      **Continuing Education.** Effective October 1, 1993, every licensed polygraph examiner seeking annual renewal of a license shall, as a prerequisite for renewal of such license, report with the license renewal form satisfactory evidence of having completed at least twelve (12) credit hours of qualified continuing education in the subject areas of polygraph examinations, and/or related field. No polygraph examiner shall be required to complete any credit hours of continuing education during the calendar year in which he or she first becomes licensed.

- (a) Seminars, conferences, courses and classes sponsored by national, regional, state and local polygraph associations and those sponsored by individuals nationally recognized as experts in the profession may be accepted as meeting the requirements of this rule.
- (b) University or college courses, provided that:
  - 1. For credit courses, each semester hour credit shall equal fifteen (15) continuing education credit hours, and each quarter hour credit equal ten (10) continuing education credit hours.
  - 2. For noncredit short courses, continuing education credit shall equal actual time in class.
- (c) Serving in capacity as an intern sponsor during the year licensing period. (5 hours per intern)
- (d) Presentation of a related industry paper for a seminar or publication. (5 hours per paper)
- (e) Continuing education credit shall be allowed for service as an instructor, discussion leader, or speaker at any program for which participants are el-

igible to receive continuing education credit. Credit for such service will be awarded on the first presentation only, unless a program has been substantially revised. The amount of credit awarded shall not exceed three (3) times the number of class hours; provided, however, that credit hours awarded under this paragraph shall not exceed fifty percent (50%) of the total number of credit hours required by this chapter within any reporting period.

- (f) At the time each examiner submits a request to renew his license for the following year, a copy of the diploma, certificate, or other documentation confirming instruction and attendance shall be submitted.
- (g) No license shall be renewed without proof of continuing education as required herein.
- (h) Any false or incorrect information submitted hereunder shall be grounds for revocation of any license granted.
- (i) If any continuing education credit hours claimed in a statement submitted by a licensee pursuant to paragraph (f) of this rule are disapproved, the Board shall notify such licensee of the reason for the disapproval. The Board may allow a specified period of time for correction of the deficiencies noted.
- (j) The Board may, upon written request, extend the time within which licensees must comply with the requirements of this chapter for reasons of poor health, military service or other reasonable and just causes.
- (k) Any licensee who requests or is granted an extension of time under this rule shall remain subject to paragraphs (f), (g), (h) and (i), and shall note such extension on any report required thereunder.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975 , §§34-25-5(a), 41-22-4.

**History:** Filed November 6, 1991.

**ALABAMA BOARD OF POLYGRAPH EXAMINERS  
ADMINISTRATIVE CODE**

**CHAPTER 740-X-4 INTERNSHIPS**

**TABLE OF CONTENTS**

**740-X-4-.01 Internship License Program**

**740-X-4-.02 Governmental Interns**

**740-X-4-.01 Internship License Program.** Section 34-25-25 of the act provides for an internship license program. The details and procedures of that program will be as follows:

- (a) The internship license program will be opened to those applicants for a polygraph examiner's license who have not served a six (6) month internship. During the internship period the applicant will receive additional training in polygraph before they will be able to demonstrate sufficient competency to be issued a regular polygraph examiner's license;
- (b) An application for an internship license shall be completed with necessary supporting documents by the applicant, in writing under oath, on forms prescribed and supplied by the Board. If an application is not completed within the six months following the Board's notice to the applicant, the application will be void.
- (c) No applicant will be issued an internship license until that applicant has completed the residence phase of a polygraph school approved by the Board.
- (d) At the time the Board issues an internship license, the Board will appoint for each intern a sponsor who holds a regular Alabama Polygraph Examiner's License, or is otherwise determined to be qualified by the Board. In no event will a member of the Board serve as a sponsor for an intern.
- (e) It is the responsibility of each intern to contact his sponsor and to establish a schedule of meetings with his sponsor. An intern must meet with his sponsor no fewer than five times in each sixty day reporting period.
- (f) It is the responsibility and duty of each sponsor of an intern to monitor the performance of the intern whom the sponsor supervises, to evaluate and critique the performance of that intern, and to supply any advice and assistance necessary to aid the intern in satisfying the purpose and goal of the internship program.
- (g) It is the responsibility and duty of each sponsor of an intern to submit to

the Board at least every sixty days a report outlining the progress of the intern under supervision during that period, on a form to be prescribed by the Board.

- (h) During the internship period, the intern must complete such additional courses or programs as required by the intern's polygraph school and as the Board may require.
- (i) During the internship period, the intern must complete all other qualification requirements prescribed by the Polygraph Examiners Act or by the Board.
- (j) Pursuant to Code of Ala. 1975, § 34-25-25(b), for good cause shown, the Board may renew or extend an internship license for a period not to exceed six months.
- (k) At or near the completion of the internship period, the intern will be required to comply with the requirements of Rule 740-X-3-.05.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981. Amended: Filed February 8, 1984. Amended: Filed December, 3 2019

**740-X-4-.02 Governmental Interns.** During his internship, a governmental examiner who has obtained a sufficient bond, furnished proof of such bond to the Board as required by Rule 740-X-3-.14, and paid the necessary fees may conduct commercial examinations.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.



ALABAMA BOARD OF POLYGRAPH EXAMINERS  
ADMINISTRATIVE CODE

CHAPTER 740-X-5 EXAMINATIONS

TABLE OF CONTENTS

740-X-5-.01	<b>Proper Purpose Of Polygraph Examinations</b>
740-X-5-.02	<b>Polygraph Examinations</b>
740-X-5-.03	<b>Incompetency Defined</b>
740-X-5-.04	<b>Unworthiness Defined</b>

**740-X-5-.01**     **Proper Purpose Of Polygraph Examinations.** The sole proper purpose of polygraph examinations is to detect deception or verify the truth of statements. The availability of polygraph examinations as a means of detecting deception may well have a beneficial effect on the behavior of individuals who are aware that they may be asked to take polygraph examinations concerning their behavior. However, it is improper to use polygraph examinations as a scare tactic. Any practice or policy which is structured to influence or which seeks to affect the future conduct of examinees more than it seeks to detect deception or verify the truth of the examinees' statements concerning past behavior is improper.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**740-X-5-.02**     **Polygraph Examinations.**

(1) A polygraph examination consists of:

- (a) A pre-test interview,
- (b) Chart examination, and
- (c) A post-test interview.

(2) An examiner will personally conduct an adequate pre-test interview.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981. Amended: Filed November 6, 1991.

**740-X-5-.03**     **Incompetency Defined.** Pursuant to the authority and responsibility vested in it by the Alabama Polygraph Examiners Act, and pursuant to the provisions of §§34-25-5(a), 34-25-32(4)(6) of that act, the Board defines incompetency to include, but not be limited to, violation of any of the following minimum standards of competency:

- (a) No examiner will use equipment which does not meet all the minimum requirements prescribed in §34-25-3 of the act.
- (b) No examiner will ask a question during a polygraph examination without first reviewing that question with the examinee.
- (c) No examiner will ask a question during a polygraph examination without waiting not less than ten seconds between the end of the preceding answer by the examinee and the beginning of the next question by the examiner.
- (d) No examiner will rely upon a polygraph chart which contains less than seven questions.
- (e) No examiner will render a verbal or written conclusion or opinion based, in whole or in part, on polygraph chart analysis of any question without having asked that question at least two times.
- (f) No examiner will perform more than six polygraph examinations in any one calendar day.
- (g) No examiner will produce a polygraph chart which is not adequately marked by the examiner to identify at a minimum each of the following: the individual being tested, the date of the examination, the time of the chart, the chart and test number, and the examiner's initials. Where charts are produced from instruments which contain electronically enhanced components, an examiner will mark such charts to show the sensitivity level at the beginning of the chart and at any point where the sensitivity level is changed.
- (h) No examiner will render a verbal or written conclusion or opinion based upon a polygraph examination performed on an examinee whom the examiner knows or has reason to believe is physically or mentally unfit.
- (i) No examiner will report information as factual which the examiner obtained through any means other than personally conducting an interview of the individual being tested, provided, that an examiner is not precluded from rendering a professional opinion based on chart analysis even absent substantive admissions by the individual being tested.
- (j) No examiner will conduct a pre-test interview in any manner other than personally and an examiner must conduct each pre-test interview, in its entirety, personally.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981. Amended: Filed November 6, 1991. Amended: Filed July 24, 2014; effective August 28, 2014.

**740-X-5-.04      Unworthiness Defined.** Pursuant to the authority and responsibility vested in it by the Alabama Polygraph Examiners Act, and pursuant to

the provisions of §34-25-5(a), 34-25-32(4)(6) of the act, the Board defines unworthiness to include, but not be limited to, violation of any of the following minimum standards of worthiness:

- (a) No examiner will knowingly issue a polygraph examination report or render a verbal written conclusion or opinion which is misleading, biased or falsified in any way. Each polygraph report will be a factual, impartial, and objective account of the pertinent information developed during the examination, and the examiner's professional opinion based on analysis of the polygraph charts.
- (b) No examiner will conclude a polygraph examination session without affording the examinee a reasonable opportunity to explain any reactions to pertinent questions which are evident on the charts.
- (c) No examiner will solicit or attempt to solicit other business as a result of information or statements obtained from an examinee.
- (d) No examiner will ask questions that either are or can reasonably be construed to be sexually oriented, unless the questions are relevant to the legitimate purpose of the examination, and unless the examiner explains the questions and their relevancy to the examinee before asking the question.
- (e) No examiner will fail to permit an inspection authorized pursuant to Rule 740-X-6-.03.
- (f) No examiner will fail to cooperate with the Board or any officer or agent thereof in any Board-authorized investigation conducted pursuant to Rule 740-X-6-.02.
- (g) No examiner will conduct a polygraph examination which has as its primary purpose influencing the future conduct of an examinee rather than detecting deception or veracity on the part of the examinee.
- (h) No examiner will fail to immediately notify the Board of the cancellation or discontinuance of his surety bond as required by Rule 740-X-3-.15.
- (i) No examiner will conduct a polygraph examination unless a surety bond, as required by Rule 740-X-3-.14, is in effect.
- (j) No examiner will conduct himself in a manner which reflects that he is a person of dishonesty or untruthfulness, or that he lacks integrity or is morally unfit.
- (k) No examiner will violate any provision of any rule of these rules and regulations.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§34-25-5(a), 41-22-4.

**History:** Filed October 8, 1981.

**ALABAMA BOARD OF POLYGRAPH EXAMINERS  
ADMINISTRATIVE CODE**

**CHAPTER 740-X-6 COMPLAINTS**

**TABLE OF CONTENTS**

**740-X-6-.01 Complaints**

**740-X-6-.02 Proceedings On Complaints**

**740-X-6-.03 Inspection Of Records And Documents By The Board**

**740-X-6-.04 Preservation Of Records And Documents**

**740-X-6-.05 Records In Board Possession**

**740-X-6-.01 Complaints.**

- (1) The Board will take action on complaints which are submitted to it on forms prescribed and supplied by the Board in order to determine if there is reason to believe that the act or these regulations have been violated.
- (2) The form for complaints to the Board is as follows:



- (3) Board complaint forms may be obtained at the Board office by writing the Board, or from individual Board members.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984.

**740-X-6-.02 Proceedings On Complaints.** The Board has authorized establishment of a complaint committee. The committee will include the administrative secretary, the board's legal consultant and the board member from the complainant's geographical area.

- (1) Upon receiving a complaint, the committee will review the complaint and encourage the board to:
- (a) Make a further investigation of the matters referred to in the complaint;
  - (b) Request that all of the parties concerned appear at an informal hearing on the complaint; or
  - (c) Begin proceedings to suspend or revoke a polygraph examiner's license as provided by law.
- (2) After conducting an investigation or after an informal hearing, the Board may begin formal proceedings to issue oral or written reprimands, place an examiner on probation, or to suspend or revoke a polygraph examiner's license.
- (3) The Board shall begin proceedings to suspend or revoke a polygraph examiner's license whenever a complaint is made to the Board unless the Board determines, after investigation or an informal hearing, that the facts do not support a claim that the act or these regulations have been violated.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed February 7, 1984; Amended : Filed November 6, 1991, Amended: Filed December 3, 2019

**740-X-6-.03 Inspection Of Records And Documents By The Board.** The Board may authorize an inspection of all opinions, reports, charts, question lists and other records relating to any polygraph examination performed in the State of Alabama. Such inspection shall be for the purpose of determining if there has been any violation of the provisions of these regulations. The Board may direct that the inspection take place at the location of the records or at a Board meeting.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed October 1, 1981.

**740-X-6.04 Preservation Of Records And Documents.** All examiners will preserve and keep on file for a minimum of two years after each polygraph examination all opinions, reports, charts, question lists, and other records relating to the polygraph examination. These records and documents, along with any others that are preserved, shall be subject to inspection and examination by the Board as provided in Rule 740-X-6-.03.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed October 1, 1981.

**740-X-6.05 Records In Board Possession.** No Board record or records obtained from examiners will be removed from the Board office unless signed for by the person receiving such records.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed October 1, 1981.

**ALABAMA BOARD OF POLYGRAPH EXAMINERS  
ADMINISTRATIVE CODE**

**CHAPTER 740-X-7 APPLICABILITY**

**TABLE OF CONTENTS**

**740-X-7-.01 Applicability Of These Rules And Regulations**

**740-X-7-.01 Applicability Of These Rules And Regulations.**

- (1) On their effective date, these rules and regulations shall supersede and replace the rules and regulations previously adopted by the Board, and these rules and regulations will remain in effect until superseded, replaced, or amended by future rules and regulations.
- (2) Conduct and action occurring before the effective date of these rules and regulations shall be governed by the rules and regulations which were in effect at the time of the conduct and action occurred.
- (3) These rules and regulations shall apply to and govern all conduct and action occurring after their effective date.

**Author:** Polygraph Examiners Board

**Statutory Authority:** Code of Ala. 1975, §§ 34-25-5(a), 41-22-4.

**History:** Filed October 1, 1981.



# **Code of Alabama 1975**

**Volume 18, Chapter 25 as amended**

## Chapter 25

# POLYGRAPH EXAMINERS

Article 1		Sec.	
General Provisions		34-25-21	Qualifications of examiner; bond.
Sec.		34-25-22	Applications for original license.
34-25-1	Short title.	34-25-23	Nonresident applicants.
34-25-2	Definitions.	34-25-24	Applicant with out-of-state license.
34-25-3	Instrumentation.	34-25-25	Internship license.
34-25-4	Polygraph Examiners Board generally.	34-25-26	Examination and license fees.
34-25-5	Administration and enforcement of chapter; deposits and expenditures; per diem and travel expenses for board members; purchasing; board exempt from sales tax.	34-25-27	Display of license; signature thereon.
34-25-6	Admissibility of results as evidence.	34-25-28	Change of business address.
34-25-7	Injunctions; contempt of court.	34-25-29	Termination and renewal of examiner's license.
34-25-8	Penalties.	34-25-30	License required to maintain action.
Article 2		34-25-32	Refusal, suspension, reprimand, probation or revocation — Grounds.
Licenses.		34-25-33	Same — Violation by one examiner or trainee not to affect employer.
		34-25-34	Same — Hearing.
		34-25-35	Same — Judicial review.
34-25-20	Required; unauthorized practice.	34-25-36	Same — Surrender of license.

Code commissioner's note. - Section 2 of Acts 1989, No. 89-269 provides: "The existence and functioning of the Polygraph Examiners Board, created and functioning pursuant to sections 34-25-1 through 34-25-36, Code of Alabama 1975, is hereby continued and said code sections are hereby expressly preserved."

Acts 1991, No. 91-164 § 2 provides that the polygraph examiners board is continued.  
See also § 41-200-3.

## ARTICLE 1.

### GENERAL PROVISIONS

Collateral references. - 24B C.J.S., Criminal Law. § 967.72 C.J.S., Polygraph. p. 224.

Licenses: validity and construction of statutes licensing or otherwise regulation operators of polygraph or similar devices. 32 ALR3d 1324.

**§ 34-25-1 Short title.**

This chapter shall be known and may be cited as the Polygraph Examiners Act. (*Acts 1971, No. 2056, p. 3307, §1.*)

**Section 34-25-2 Definitions.**

For the purposes of this chapter, the following terms shall have the following respective meanings ascribed by this section:

- (1) BOARD. The Polygraph Examiners Board.
- (2) CHAIRMAN. That member of the Polygraph Examiners Board selected by the board to act as chairman.
- (3) INTERNSHIP. The study of polygraph examinations and of the administration of polygraph examinations by a trainee under the personal supervision and control of a polygraph examiner in accordance with a course of study prescribed by the board at the commencement of such internship.
- (4) PERSON. Any natural person, firm, association, co-partnership or corporation.
- (5) POLYGRAPH EXAMINER. Any person who uses instrumentation described herein to test or question individuals for the purpose of detecting deception or verifying truth of statements, or any person who holds himself out to be a lie detector operator or examiner, or any person who purports to be able to detect deception or verify truth of statements through instrumentation or the use of a mechanical device.

(*Acts 1971, No. 2056, p. 3307, §2; Acts 1989, No. 89-269, p. 416, §3.*)

**Section 34-25-3 Instrumentation.**

- (a) Every polygraph examiner shall use an instrument which, as a minimum, records visually, permanently and simultaneously:
  - (1) A subject's cardiovascular pattern;
  - (2) A subject's respiratory pattern; and
  - (3) A subject's galvanic skin response.
- (b) Patterns of other physiological changes in addition to subdivisions (1), (2) and (3) of subsection (a) may also be recorded.
- (c) The use of any instrument or device to detect or to verify truth of statements which does not meet these minimum instrumentation requirements is hereby prohibited.

(*Acts 1971, No. 2056, p. 3307, §3; Acts 1983, No. 83-647, p. 1009, §1.*)

**Section 34-25-4 Polygraph Examiners Board generally.**

- (a) There is established a Polygraph Examiners Board consisting of five voting members who are citizens of the United States and residents of the state for at least two years prior to appointment, all of whom shall have been engaged for a period of four consecutive years in their profession as polygraph examiners prior to appointment to the board and engaged at the time of appointment as an active polygraph examiner. No board members may be employed by the same person or agency. Three of the board members shall be qualified polygraph examiners of a governmental law en-

forcement agency, and two of the board members shall be qualified polygraph examiners and Alabama residents in the commercial field. Two advisory consultants shall be appointed to assist the board members. The board members and advisory consultants shall be appointed by the Governor of the State of Alabama for a term of four years. Any vacancy in an unexpired term shall be filled by appointment of the Governor, with the advice and consent of the Senate, for the unexpired term. In appointing members to the board, the Governor shall select those persons whose appointments, to the extent possible, ensure that the membership of the board is inclusive and reflects the racial, gender, urban/rural, and economic diversity of the state. On April 11, 1989, all terms of current board members and advisory consultants shall expire. The Governor shall appoint new board members and advisory consultants in accordance with this chapter. Immediately after the effective date of the amendatory act adding two additional members to the board, the board shall notify the Governor of the vacancies on the board and the Governor shall immediately appoint qualified persons to fill those vacancies in accordance with this chapter.

- (b) The board may fix the number of its full-time employees, who shall be employed pursuant to the Merit System. The board engage temporary services for the investigation of applications or to investigate complaints filed against examiners. The board shall fix the compensation for any temporary employees. Temporary employees of the board are not covered under the Retirement Systems of Alabama. Any current full-time employee of the board shall be transferred to the Department of Public Safety on April 11, 1989. All benefits, including retirement, of any current full-time employee of the board who is transferred to the Department of Public Safety in accordance with this chapter, shall be retroactive back to the original date of employment upon payment of necessary contributions as required by the Employees' Retirement System.
- (c) On or after April 11, 1989, and within 30 days of the appointments by the Governor, this new board shall meet and elect a chair from among the members of the board. The board shall meet at three-month intervals, or at any other time as necessary.
- (d) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.
- (e) All documents, records, functions, and responsibilities currently housed at the Board of Polygraph Examiners' Office shall be transferred to the Department of Public Safety in a section to be determined by the Director of the Department of Public Safety and under the supervision of the Department of Public Safety in conjunction with the board.

*(Acts 1971, No. 2056, p. 3307, §4; Acts 1981, No. 81-222, p. 293, §4; Acts 1989, No. 89-269, p. 416, §3; Act 2003-61, §3.)*

**Section 34-25-5 Administration and enforcement of chapter; deposits and expenditures; per diem and travel expenses for board members; purchasing; board exempt from sales tax.**

- (a) The board shall issue regulations and forms consistent with this chapter for the administration and enforcement of this chapter.

- (b) An order or a certified copy thereof, over board seal and purporting to be signed by the board members, shall be prima facie proof that the signatures are the genuine signatures of the board members and that the board members are fully qualified to act.
- (c) On April 11, 1989, all moneys and appropriations credited to the Board of Polygraph Examiners under the provisions of Article 4 of Chapter 4, Title 41, shall be transferred by the State Treasurer to the charge and custody of the Board of Polygraph Examiners of the Alabama Department of Public Safety; and the board shall administer the fund as provided by law. The fund is hereby officially known as the Board of Polygraph Examiners Fund.

All fees collected under this chapter shall be paid to the Board of Polygraph Examiners Fund for the purpose of administering and enforcing this chapter and shall be deposited in the fund.

Warrants shall be issued by the Department of Finance, Office of the State Comptroller, for board expenses and operation provided that no funds shall be withdrawn except as budgeted and allotted according to Article 4 of Chapter 4 of Title 41 and only in the amounts as stipulated in the general appropriations bill.

- (d) Board members and advisory consultants shall be paid one hundred dollars (&dollar;100) per day plus mileage for attendance at regular or special board meetings, only for the actual days of meeting. The board may approve the payment for a board member when authorized by the board to perform certain other duties of the board when not in formal, regular, or special session.
- (e) Employees shall be paid the same mileage expenses and travel allowance as provided for regular state employees.
- (f) The board may determine all resources necessary for the operation of the board. Purchasing shall be in accordance with the state bid law.
- (g) The board shall be exempt from payment of state sales tax.  
(*Acts 1971, No. 2056, p. 3307, §5; Acts 1981, No. 81-222, p. 293, §4; Acts 1983, No. 83-647, p. 1009, §1; Acts 1989, No. 89-269, p. 416, §3; Acts 1995, No. 95-278, p. 500, §3.*)

#### **Section 34-25-6 Admissibility of results as evidence.**

Nothing in this chapter shall be construed as permitting the results of truth examinations or polygraph examinations to be introduced or admitted as evidence in a court of law.

(*Acts 1971, No. 2056, p. 3307, §26.*)

#### **Section 34-25-7 Injunctions; contempt of court.**

If any person violates any provisions of this chapter, the board shall, upon direction of a majority of the board, in the name of the State of Alabama, apply in any circuit court of competent jurisdiction for an order enjoining such violation or an order enforcing compliance with this chapter. Upon the filing of a verified petition in the court, the court, or any judge thereof, if satisfied by affidavit or otherwise that the person has violated this chapter, may issue a temporary injunction,

without notice or bond, enjoining such continued violation; and, if it is established that the person has violated or is violating this chapter, the court, or any judge thereof, may enter a judgment perpetually enjoining the violation or enforcing compliance with this chapter. In case of violation of any order or judgment issued under the provisions of this section, the court, or any judge thereof, may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this chapter.

*(Acts 1971, No. 2056, p. 3307, §24; Acts 1989, No. 89-269, p. 416, §3.)*

### **Section 34-25-8 Penalties.**

Any person who violates any provision of this chapter or any person who falsely states or represents that he has been or is a polygraph examiner or trainee shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00 or by imprisonment in the county jail for a term not to exceed six months, or both.

*(Acts 1971, No. 2056, p. 3307, §25.)*

## **ARTICLE 2**

### **LICENSES**

### **Section 34-25-20 Required; unauthorized practice.**

- (a) It shall be unlawful for any person, including a city, county or state employee, to administer polygraph examinations or attempt to hold himself out as a polygraph examiner without a license approved by the board and issued by the board.
- (b) It shall be unlawful for any person, including city, county or state employees, to administer polygraph examinations utilizing any device or instrumentation which does not comply with Section 34-25-3.

*(Acts 1971, No. 2056, p. 3307, §6; Acts 1981, No. 81-222, p. 293, §4.)*

### **Section 34-25-21 Qualifications of examiner; bond.**

- (a) A person is qualified to receive a license as an examiner:
  - (1) Who is at least 21 years of age;
  - (2) Who is a citizen of the United States;
  - (3) Who establishes that he is a person of honesty, truthfulness, integrity and moral fitness;
  - (4) Who has not been convicted of a felony or a misdemeanor involving moral turpitude;
  - (5) Who holds a baccalaureate degree from a regionally accredited college or university, and/or recognized by the board or, in lieu thereof, has five consecutive years of active investigative experience immediately preceding his application;
  - (6) Who is a graduate of a polygraph examiners' course approved by the board and has satisfactorily completed not less than six months of in-

ternship training; and

- (7) Who, when required by this chapter, passed an examination conducted by the board, or under its supervision, to determine his competency to obtain a license to practice as an examiner.
- (b) Prior to the issuance of a license, the applicant must furnish to the board evidence of a surety bond or insurance policy in an amount to be determined by the board. Said surety bond or insurance policy shall be on the condition that the obligor therein will pay to the extent of the face amount of such surety bond or insurance policy all judgments which may be recovered against the licensee by reason of any wrongful or illegal acts committed by him in the course of his examinations.

*(Acts 1971, No. 2056, p. 3307, §7; Acts 1981, No. 81-222, p. 293, §4; Acts 1989, No. 89-269, p. 416, §3.)*

### **Section 34-25-22 Applications for original license.**

Applications for original license shall be made to the board in writing under oath on forms prescribed by the board and shall be accompanied by the required fee, which is not refundable. Any such application shall require such information as in the judgment of the board will enable it to pass on the qualifications of the applicant for a license.

*(Acts 1971, No. 2056, p. 3307, §9; Acts 1989, No. 89-269, p. 416, §3.)*

### **Section 34-25-23 Nonresident applicants.**

- (a) Each nonresident applicant for an original license or a renewal license shall file with the board an irrevocable consent that actions against said applicant may be filed in any appropriate court of any county or municipality of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process on any such action may be served on the applicant by leaving two copies thereof with the board. Such consent shall stipulate and agree that such service of process shall be taken and held to be valid and binding for all purposes. The board shall send forthwith one copy of the process to the applicant at the address shown on the records of the board by registered or certified mail.
- (b) Nonresident applicants must satisfy the requirements of Section 34-25-21.  
*(Acts 1971, No. 2056, p. 3307, §10; Acts 1989, No. 89-269, p. 416, §3.)*

### **Section 34-25-24 Applicant with out-of-state license.**

An applicant who is a polygraph examiner licensed under the laws of another state or territory of the United States may be issued a license without examination by the board, in its discretion, upon payment of the appropriate fees as provided in Section 34-25-26 and the production of satisfactory proof that:

- (1) He is at least 21 years of age;
- (2) He is a citizen of the United States;
- (3) He is of good moral character;
- (4) The requirements for the licensing of polygraph examiners in such particular state or territory of the United States were at the date of the applicant's

licensing therein substantially equivalent to the requirements now in force in this state;

- (5) The applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state or territory for at least two years prior to the application for license hereunder;
- (6) Such other state or territory grants similar reciprocity to license holders of this state; and
- (7) He has complied with Section 34-25-23.

*(Acts 1971, No. 2056, p. 3307, §11; Acts 1981, No. 81-222, p. 293, §4; Acts 1987, No. 87-159, p. 219, §3; Acts 1989, No. 89-269, p. 416, §3.)*

#### **Section 34-25-25 Internship license.**

- (a) Upon approval by the board, the board shall issue an internship license to a trainee provided he applies for such license and pays the required fee within 10 days prior to the commencement of his internship. The application shall contain such information as may be required by the board.
- (b) An internship license shall be valid for the term of six months from the date of issue. Such license may be extended or renewed for any term not to exceed six months upon good cause shown to the board.
- (c) A trainee shall not be entitled to hold an internship license after the expiration of the original six-month period and six-month extension, if such extension is granted by the board, until 12 months after the date of expiration of the last internship license held by said trainee.

*(Acts 1971, No. 2056, p. 3307, §12; Acts 1989, No. 89-269, p. 416, §3.)*

#### **Section 34-25-26 Examination and license fees.**

The fee requirements of this chapter shall apply to all polygraph examiners, including those employed by governmental agencies, and to those who engage in polygraph examinations on any commercial basis. The fees to be paid, effective October 1, 1991, are as follows:

- (1) By an applicant for an examination to determine his fitness to receive a polygraph examiner's license is \$250.00, which is not to be credited as payment against the license fee and is not refundable;
- (2) For the issuance of an original polygraph examiner's license the fee is \$250.00;
- (3) For the issuance of an internship license the fee is \$100.00;
- (4) For the issuance of a duplicate polygraph examiner's license the fee is \$20.00;
- (5) For the issuance of a polygraph examiner's renewal license the fee is \$200.00;
- (6) For the extension or renewal of an internship license the fee is \$100.00; and
- (7) For the issuance of a duplicate internship license the fee is \$20.00.

*(Acts 1983, No. 83-647, p. 1009, §1; Acts 1991, No. 91-164, p. 219, §3.)*



**Section 34-25-27 Display of license; signature thereon.**

A license or duplicate license must be prominently displayed at the place of business of the polygraph examiner or at the place of internship. Each license shall be signed by the board members and shall be issued under the seal of the board.

*(Acts 1971, No. 2056, p. 3307, §14.)*

**Section 34-25-28 Change of business address.**

Notice in writing shall be given to the board by the licensed examiner of any change of principal business location within 30 days of the time he changes the location. A change of business location without notification to the board shall automatically suspend the license therefor issued.

*(Acts 1971, No. 2056, p. 3307, §15; Acts 1989, No. 89-269, p. 416, §3.)*

**Section 34-25-29 Termination and renewal of examiner's license.**

(a) (1) Each polygraph examiner's license shall be issued for the term of one year and shall, unless suspended or revoked, be renewed annually as prescribed by the board. A polygraph examiner whose license has expired may at any time within two months after the expiration obtain a renewal license, without examination or late penalty fee, by submitting a renewal application to the board and satisfying subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21. A polygraph examiner whose license has expired, and who does not apply for renewal within two months following expiration, may at any time within three to six months after the expiration obtain a renewal license, without examination, by paying a late penalty fee as prescribed by the board, submitting a renewal application to the board, and satisfying subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21.

(2) However, any polygraph examiner whose license expired while he or she was in the federal service on active duty with the Armed Forces of the United States, or the National Guard called into service or training, or in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license renewed, without examination or late penalty fee, if within six months after termination of such service, training, or education, except under conditions other than honorable, he or she furnishes the board with an affidavit to the effect that he or she has been so engaged and that his or her service, training, or other education has been terminated. Subdivisions (2), (3), and (4) of subsection (a) of Section 34-25-21 shall also be satisfied.

(b) The board shall adopt a program of continuing education for its licensees not later than October 1, 1993, and after that date no licensee shall have his or her active license renewed unless, in addition to any other requirements of this chapter, the minimum continuing annual education requirements are met. It is further provided that this continuing education program may not include testing or examination of the licensees in any manner.

*(Acts 1971, No. 2056, p. 3307, §16; Acts 1981, No. 81-222, p. 293, §4; Acts*

1983, No. 83-647, p. 1009, §1; Acts 1991, No. 91-164, p. 219, §3; Act 2003-61, §3.)

### **Section 34-25-30 License required to maintain action.**

No action or counterclaim shall be maintained by any person in any court in this state with respect to any agreement or service for which a license is required by this chapter or to recover such services for which a license is required by this chapter without alleging and proving that such person had a valid license at the time of making such agreement or performing such services.

(Acts 1971, No. 2056, p. 3307, §17.)

### **Section 34-25-32 Refusal, suspension, reprimand, probation or revocation — Grounds.**

The board may refuse to issue a license, may issue oral or written reprimands to an examiner, may place an examiner on probation, or may suspend or revoke a license on any one or more of the following grounds:

- (1) Failing to inform a subject to be examined that his participation in the examination is voluntary;
- (2) Failing to inform a subject to be examined as to the nature of the examination;
- (3) Failing to inform the subject of the results of the examination if so requested;
- (4) Willful disregard or violation of this chapter or of any regulation or rule issued pursuant thereto, including, but not limited to, willfully making a false report concerning an examination for polygraph examination purposes;
- (5) Willfully aiding or abetting another in the violation of this chapter or any regulation or rule issued pursuant thereto;
- (6) Having demonstrated unworthiness or incompetency to act as a polygraph examiner as defined by this chapter;
- (7) Making any willful misrepresentation or false promises or causing to be permitted any false or misleading advertisement for the purpose of directly obtaining business or trainees;
- (8) Allowing one's license under this chapter to be used by any unlicensed person in violation of the provisions of this chapter;
- (9) If the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor involving moral turpitude;
- (10) Where the license holder has been adjudged a habitual drunkard or mentally incompetent as provided in the probate code;
- (11) Material misstatement in the application for original license or in the application of any renewal license under this chapter; or
- (12) Failing, within a reasonable time, to provide information requested by the board as the result of a formal complaint to the board which indicates a violation of this chapter.

(Acts 1971, No. 2056, p. 3307, §18; Acts 1989, No. 89-269, p. 416, §3.)

**Section 34-25-33 Refusal, suspension, reprimand, probation or revocation  
— Violation by one examiner or trainee not to affect employer.**

Any unlawful act or violation of any of the provisions of this chapter on the part of any polygraph examiner or trainee shall not be cause for revocation of the license of any other polygraph examiner for whom the offending examiner or trainee may have been employed, unless it shall appear to the satisfaction of the board that the polygraph examiner-employer has willfully or negligently aided or abetted the illegal actions or activities of the offending polygraph examiner or trainee.

*(Acts 1971, No. 2056, p. 3307, §19.)*

**Section 34-25-34 Refusal, suspension, reprimand, probation or revocation  
— Hearing.**

- (a) Where there is cause to refuse an application or to suspend or revoke the license of any polygraph examiner, the board shall, not less than 30 days before refusal, suspension or revocation action is taken, notify such person in writing, in person or by registered or certified mail at the last address supplied to the board by such person, of such impending refusal, suspension or revocation, the reasons therefor and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension or revocation action proposed to be taken by the board. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the board for this administrative hearing, the board is authorized to suspend or revoke the polygraph examiner's license of such person without a hearing. Upon receipt by the board of such written request of such person within 20 days as set out above, an opportunity for an administrative hearing shall be afforded as early as is practicable. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by registered or certified mail sent to the last address supplied to the board by the applicant or licensee. The administrative hearing in such cases shall be before the board.
- (b) The board shall conduct the administrative hearing and it is authorized to administer oaths and issue subpoenas for attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the board shall take whatever action it deems necessary in refusing the application or suspending or revoking the license.

*(Acts 1971, No. 2056, p. 3307, §21.)*

**Section 34-25-35 Refusal, suspension, reprimand, probation or revocation  
— Judicial review.**

Any person dissatisfied with the action of the board in refusing his application or suspending or revoking his license, or any other action of the board, may appeal

the action of the board by filing a petition within 30 days thereafter in the circuit court in the county where the person resides or in the Circuit Court of Montgomery County, Alabama, and the court is vested with jurisdiction and it shall be the duty of the court to set the matter for hearing upon 10 days' written notice to the board and the attorney representing the board. The court in which the petition of appeal is filed shall determine whether or not a cancellation or suspension of a license shall be abated until the hearing shall have been consummated with final judgment thereon or whether any other action of the board should be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the board, and the court shall provide the attorney representing the board with a copy of the petition and order. The board shall be represented in such appeals by the district attorney of the county or the Attorney General, or any of their assistants. The board shall initially determine all facts, but the court upon appeal shall set aside the determination of the board if the board's determination:

- (1) Is not based upon substantial evidence upon the entire record;
  - (2) Is arbitrary or capricious;
  - (3) Is in violation of statutory requirement; or
  - (4) Was made without affording the licensee or applicant due process of law.
- (Acts 1971, No. 2056, p. 3307, §22.)

**Section 34-25-36 Refusal, suspension, reprimand, probation or revocation  
— Surrender of license.**

Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license or licenses to the board; failure of a licensee to do so shall be a violation of this chapter and, upon conviction, shall be subject to the penalties set forth in this chapter. At any time after the suspension or revocation of any license, the board shall restore it to the former licensee upon the written recommendations of the board.

*(Acts 1971, No. 2056, p. 3307, §23; Acts 1989, No. 89-269, p. 416, §3.)*

