

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

OFFICE OF COMMERCIAL SERVICES

STATE BOARD OF FORENSIC POLYGRAPH EXAMINERS

GENERAL RULES

(By authority conferred on the board of forensic polygraph examiners by section 7 of Act No. 295 of the Public Acts of 1972, as amended, being S338.1707 of the Michigan Compiled Laws)

R 338.9001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 295 of the Public Acts of 1972, as amended, being S338.1701 et seq. of the Michigan Compiled Laws.

(b) "Monitor" means to observe or listen to a polygraph examination during or after the time an examination is given.

(c) "On-site supervision" means that an intern supervisor is immediately available at the site of the examination for consultation with the intern and directly observes, either by audio or visual means, the actual conduct of the intern in administering the examination at the time the examination is given.

(d) "Remote supervision" means the intern supervisor is not immediately present at the time a polygraph examination is given.

(e) "Specific issue examination" means the polygraph examination given relative to a specific incident being investigated.

(2) The terms defined in the act have the same meanings when used in these rules.

History: 1983 AACCS.

R 338.9002 Open board meetings.

Rule 2. All persons shall have the right to address the board in open meetings, subject to the following provisions:

(a) The chairperson of the board may limit the time allocated to a person.

(b) All persons wishing to address the board shall identify themselves and the interest, if any, they represent.

(c) The chairperson shall recognize all persons wishing to speak on a matter within the time limits available.

(d) The chairperson shall ask for any public comment as each agenda item is considered.

(e) In addition to subdivision (d) of this rule, a specific time shall be allocated on each agenda for general public comments.

(f) Groups of 5 or more persons wishing to attend a board meeting are requested to notify the board in advance so appropriate facilities may be reserved.

(g) A person addressing the board meeting shall not discuss a subject that may prejudice the board's decision in an administrative hearing or a contested case which may later come before the board.

History: 1983 AACCS.

R 338.9003 Records; access.

Rule 3. (1) A written or oral request for access to, or a copy of, a public record shall be made with the State Board of Forensic Polygraph Examiners, Department of Licensing and Regulation, P.O. Box 30018, Lansing, Michigan 48909. The request shall be made and acted upon in accordance with Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws.

(2) Both the number of persons inspecting and examining records at the same time and the number of public records which a person may inspect and examine at one time may be limited if deemed necessary to prevent excessive and unreasonable interference with the discharge of the board's functions.

(3) A person may be excluded from inspecting or examining public records if such person is mutilating or otherwise physically abusing a public record.

(4) A departmental employee may take measures appropriate to the circumstances regarding inspection or examination of public records where necessary to protect the public records and to prevent excessive and unreasonable interference with the discharge of the board's functions. Any person whose access to the public records is restricted by such action shall be promptly provided an opportunity to confer with the employee's supervisor to dispute the appropriateness or necessity of the restriction.

(5) A person shall return a public record promptly upon a demand therefor. A demand shall not be made unless necessary to protect a public record or to prevent excessive and unreasonable interference with the discharge of the board's functions.

History: 1983 AACs.

R 338.9004 Disclosure of information divulged during polygraph examination; written report required upon request; content; disclosure of professional opinion; authorizing the monitoring of examination by, and the divulging of information to, researchers and individuals with a substantial interest; exchange of information between public law enforcement agencies and polygraph examiners permitted.

Rule 4. (1) A person who monitors an examination shall not disclose to any person, except the person requesting the examination, any information divulged by the examinee during a polygraph examination without first obtaining specific written consent from the examinee, unless otherwise required to do so by law.

(2) An examiner shall, upon the written request of the examinee or the person requesting the examination, prepare a written report of the examination, which shall contain all of the following:

(a) A statement of the objectives of the polygraph examination.

(b) The number of questions asked and the number of tests conducted during the examination which were relevant to the issues that the examinee agreed to be examined upon.

(c) The examiner's opinion as to the truthfulness or deception of the examinee, or the examiner's statement that he or she was not able to reach a conclusion about the examinee's truthfulness or deception.

(3) An examiner shall not include in his or her report any opinion as to the truthfulness or deception of the examinee regarding any matters not in the statement of objectives for the examination.

(4) An examiner shall not report his or professional opinion as to an examinee's truthfulness or deception in an examination without having asked questions relating to the examination objectives at least once in each of 2 separate tests within the same examination. If admissions or confession material to the issue under examination occur before the completion of the examination, the examination shall be construed as completed and the admissions or confession may be reported as being self-evident.

(5) Upon the examinee's written request, the examiner shall furnish the examinee a written report of the examination. The report shall include the information indicated in subrule (2) of this rule.

(6) An examiner, an employee of an examiner, or other persons shall not divulge any information revealed by an examinee during an examination in explaining or responding to control questions introduced for diagnostic comparison purposes without first obtaining the written consent of the examinee, except where such information specifically concerns the objectives of the examination stated and agreed to in advance by the examinee and subject to the provisions of the act and the promulgate rules issued pursuant thereto. However, this shall not be construed as prohibiting lawful disclosure or use of any information concerning additional admissions or explanations volunteered by the examinee during the examination where such admissions or explanations are not responsive to control questions.

(7) An examiner may authorize the monitoring of an examination by, and the divulging of information concerning the examination to, a person engaged in research or education related to conducting polygraph examinations and may also authorize the monitoring of an examination by, and the divulging of information to, a person who has a substantial interest in the examination or the examinee, or both, if the examiner first obtains from such person his or her agreement to abide by the

provisions of the act and the rules promulgated thereto.

(8) Information, reports, or results from a polygraph examiner may be provided, disclosed, or conveyed between public law enforcement agencies or between licensed polygraph examiners.

History: 1983 AACCS.

R 338.9005 Record of examination required; maintenance; content.

Rule 5. An examiner shall, in the case of every polygraph examination administered by him or her, create and maintain a record for not less than 5 years. Such record shall contain, at a minimum, all of the following:

- (a) Information pertaining to the objective of the examination.
- (b) Information volunteered by the examinee during the pretest interview that is pertinent to the objectives of the examination.
- (c) The exact relevant questions asked of the examinee during the polygraph examination and the examinee's answers thereto.
- (d) All polygraph instrument recordings made during the polygraph examination and all other tests administered to the examinee. Such recordings and tests shall adequately identify all of the following:
  - (i) The order in which the tests were administered.
  - (ii) The point at which test questions were asked.
  - (iii) The examinee's answer to each test question.
  - (iv) The identification of each test question.
- (e) All written consents of the examinee as required elsewhere in these rules.
- (f) All pretest interview information volunteered by the examinee relating to the examinee's background, education, health, medical history, and his or her general suitability for the examination.

History: 1983 AACCS.

R 338.9006 Interns; licensure; qualifications; training.

Rule 6. (1) Before being approved for an intern's license, an applicant shall meet the requirements of section 11 of the act and shall complete all forms as prescribed by the board.

(2) An approved internship or internship training program shall consist of an academic training component and a practical training component. With respect to the academic training component, all of the following provisions apply:

- (a) An applicant shall submit to the board satisfactory evidence of enrollment in a course of instruction in the theory and practice of polygraph technique at a polygraph school approved by the board.
- (b) The successful completion of the in-house phase of the school's training by an applicant shall be verified by a letter from the training facility to the board.
- (c) To qualify for an examination for an examiner's license, the applicant shall direct the polygraph training school to provide the board with proof that the applicant has met all requirements of the school.

(3) During the course of his or her internship, and subsequent to his or her completion of academic training, an intern shall do all of the following:

(a) Personally administer not less than 200 polygraph examinations, of which not less than 50 shall be specific issue examinations. The first 25 examinations conducted by the intern shall include not less than 10 specific issue examinations, and all 25 examinations shall be supervised on-site by a polygraph examiner who holds current and valid board approval to act as an intern supervisor as set forth in R 338.9007.

(b) Following completion of the administering of the first 25 examinations set forth in subdivision (a) of this subrule, the intern shall personally administer not less than 175 additional polygraph examinations under the supervision of an approved intern supervisor. The supervision of these additional examinations may, at the discretion of the intern supervisor, be either direct on-site supervision or remote supervision. Not less than 40 of these additional examinations shall be specific issue examinations. Upon request, the intern shall provide the intern supervisor with all relevant data in order that the supervisor may evaluate and critique the intern's performance.

(c) Maintain a chronological record of all examinations conducted. Such record shall contain, at a minimum, all of the following information:

(i) The date, time, and location of each examination and the examinee's initials. The examinee's name shall not be recorded on the chronological record.

(ii) The nature of each examination, that is, whether preemployment, periodic, or specific issue.

(iii) The nature of supervision of each examination, whether on-site or remote, and the name of the intern supervisor who monitored the examination.

(iv) The number of tests administered during each examination and the outcome of each examination.

History: 1983 AACCS.

R 338.9007 Intern supervisor status; minimal requirements.

Rule 7. Intern supervisor status shall be granted for 24-calendar-month terms to an applicant who meets the following minimal requirements:

(a) Holds, or, in the case of a nonresident, is qualified to hold, a current public or private polygraph examiner's license in the state of Michigan.

(b) Has satisfactorily completed a formal course of instruction at a polygraph school in the polygraph technique approved by the board.

(c) Has at least an academic degree at the baccalaureate level from an accredited college or university. An applicant who has or is awarded a Michigan polygraph examiner license before December 31, 1979, and who at the time of application for intern supervisor status holds a current and valid license is not required to hold an academic degree.

(d) Has had not less than 3 continuous years of experience in administering polygraph examinations before application for intern supervisor status, during which period he or she personally conducted a minimum of 400 such examinations, not less than 150 of which were specific issue examinations.

(e) Provides satisfactory evidence that he or she has done 1 or more of the following in a 24-calendar-month period immediately before his or her application:

(i) Attended 1 or more seminars or workshops dealing directly with topics related to polygraph testing where such workshops or seminars total not less than 40 hours of attendance. Satisfactory evidence of attendance and substantive areas covered in such workshops shall be submitted to the board of approval.

(ii) Completed not less than 15 semester hours of academic course work at an accredited college or university.

(iii) Completed not less than 10 semester hours of academic course work at an accredited college or university and attended 1 or more seminars or workshops approved by the board dealing directly with the polygraph technique, where such workshops or seminars total not less than 20 hours of attendance.

History: 1983 AACCS.

R 338.9008 Intern supervisor; submission of information.

Rule 8. An intern supervisor shall submit to the board a written statement of the following information at the following times:

(a) Within 5 business days following completion of on-site monitoring of an intern's first 25 examinations, his or her judgment of the intern's proficiency and competency in conducting polygraph examinations and his or her decision as to whether continued on-site monitoring or remote supervision is necessary.

(b) Within 5 business days following completion of the on-site monitoring of the intern's 25 examinations as required in R 338.9005(5)(a), that the intern has met the requirements of R 338.9005(5)(a).

(c) During the intern supervisor's term of supervision of an intern, immediate notice of either of the following:

(i) Any action or inaction by the intern in violation of the act or rules promulgated pursuant thereto.

(ii) Any judgment of the intern supervisor that the internship should be terminated and the reasons therefor.

History: 1983 AACCS.

R 338.9009 Application for examiner's license; submission of proof of training or experience equivalent to requirements of the act.

Rule 9. (1) To satisfy the board that an applicant for an examiner's license has training or experience equivalent to an intern training program as required under section 10(e)(ii) of the act, the applicant shall supply the board with all of the following information:

(a) Proof of 1 year's experience conducting polygraph examinations since completion of the in-house phase of training of a school currently accredited by the board, verified by a letter from the school.

(b) A notarized affidavit that he or she has completed 200 polygraph examinations, of which 50 shall be specific issue.

(c) Satisfactory proof that he or she has had suitable experience in the personal administration of polygraph examinations.

(d) Proof of satisfactory completion of all requirements of the school attended.

(2) An applicant with less than 1 year's experience shall apply for an intern license.

History: 1983 AACCS.

R 338.9010 Display of license; change of address notification; examination identification.

Rule 10. Pursuant to section 17 of the act, the following provisions apply regarding display of a license, change of address notification, evidence of license, and surrender of license:

(a) Each license shall be prominently displayed at the principal place of business of every examiner or intern.

(b) Notice, in writing, shall be given to the board by the license holder within 10 days of any change of principal business location. Upon notification and payment of the required fee, the board shall issue a new license for the unexpired period. A change of location without notification to the board and without the issuance by the board of a new license is cause for suspension of the previous license issued.

(c) When a polygraph examination is to be conducted at a location other than the principal place of business, the examiner shall have a wallet identification card available for inspection by the examinee or person requesting the examination.

History: 1983 AACCS.

R 338.9011 License renewal.

Rule 11. (1) A license shall lapse on the day after its expiration. A license may be renewed during the following 60 days upon application and payment of the renewal and reinstatement fee.

(2) A person whose license has lapsed and not been renewed pursuant to subrule (1) of this rule may be relicensed upon showing that the person meets the requirements for licensure and upon paying the initial application fee and reinstatement fee.

History: 1983 AACCS.

R 338.9012 Academic areas of specialized study.

Rule 12. Not less than 15 semesters hours, or equivalent, in total or in combination, of the academic areas of specialized study required under section 10(d) of the act shall be in the social or behavioral sciences.

History: 1983 AACCS.

R 338.9013 Examiner licensure; examination.

Rule 13. (1) The licensing examination fee shall be paid by the applicant before the licensing examination or reexamination can be taken.

(2) An application for licensure shall be made on a form furnished by the department of licensing and regulation.

(3) The board shall notify the applicant of the date and time of the examination not less than 2 weeks before the examination date for which the applicant is scheduled to appear.

(4) The examination shall consist of both a written test and an oral examination of case files specified in subrule (5) of this rule.

(5) During the licensing examination, the applicant shall present 10 complete case files of examinations conducted during the internship or its equivalent. The case files shall be selected by the board from the chronological record specified in R 338.9006(3)(c), if such file is required to be maintained. The case file shall include all polygraph records and supportive data. The applicant shall demonstrate, to the satisfaction of the board, that the records called for by the board are complete and are the records pertaining to the examinations which the board has requested. The applicant shall explain, to the satisfaction of the board, the polygraph chart recordings and conclusions of the examinations. Not less than 5 of the cases and polygraph charts shall be specific issue examinations.

(6) All applicants shall pass both the written and the oral components of the examination for approval for licensure.

(7) All applicants shall attain not less than 70% correct answers on the written examination.

(8) All applicants shall be notified of the results of the examination by mail not later than 30 days after the examination.

(9) An applicant shall be required to retake only the component of the examination, written or oral, which was failed. If successful passage is not attained within 12 months, both components shall be retaken.

(10) An applicant who fails to pass a component of the examination is not eligible for reexamination of that component until at least 3 months have elapsed.

History: 1983 AACs.