

**RULES
OF
THE TENNESSEE DETECTION SERVICES LICENSING PROGRAM
POLYGRAPH EXAMINER RULES**

**CHAPTER 1160-01
ADMINISTRATION AND ENFORCEMENT**

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1160-01-.01 DEFINITIONS.

As used in this chapter, unless the context requires otherwise, the term “Commissioner,” “Internship,” “Intern Sponsor,” “Person,” and “Polygraph Examiner” shall be defined as in T.C.A. § 62-27-102.

Authority: T.C.A. §§ 62-27-102, 62-27-105, 62-35-129, and 62-35-143. **Administrative History:** Original rule filed February 28, 1983; effective March 30, 1983. Amendment filed September 19, 2003; effective December 3, 2003. Amendments filed March 22, 2023; effective June 20, 2023.

1160-01-.02 APPLICATIONS.

- (1) An applicant for a polygraph examiner’s license or an internship permit shall file an application with the Commissioner with the following:
 - (a) A non-refundable application fee to obtain a polygraph examiner’s license or an internship permit required by Rule 1160-01-.08;
 - (b) A 2” x 3” or 3” x 3” photograph of the applicant; and
 - (c) A full set of fingerprints made at a law enforcement agency by an agent or officer of such agency. The fingerprint card shall be entirely completed in the presence of such agent or officer.
- (2) The Commissioner shall consider only those applications that are complete. A completed application is one in which all of the application questions are answered and the application is accompanied by the items in paragraph (1) above. An applicant shall file a complete application with the Commissioner within ninety (90) days of the initial application date or the Commissioner shall return the incomplete application to the applicant.

Authority: T.C.A. §§ 62-27-105, 62-27-108, 62-27-111, 62-27-112, 62-35-129, and 62-35-143. **Administrative History:** Original rule filed February 28, 1983; effective March 30, 1983. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed December 14, 2006; effective February 27, 2007. Amendments filed March 22, 2023; effective June 20, 2023.

1160-01-.03 EXAMINATIONS.

- (1) A polygraph examiner license applicant may take the licensing examination only after the applicant has fulfilled the requirements in Tenn. Code Ann. § 62-27-107(a)(1) through (6) and submitted an application with the Commissioner.
- (2) A polygraph examiner intern may take the examination for a polygraph examiner’s license during his or her internship period.

(Rule 1160-01-.03, continued)

- (3) Polygraph examiner and intern applicants shall schedule their respective examinations a minimum of ten (10) days prior to any scheduled or requested examination date.
- (4) A polygraph examiner or intern applicant shall pay the examination fee prior to sitting for the examination.

Authority: T.C.A. §§ 62-27-105, 62-27-107(a)(7), and 62-27-111(d). **Administrative History:** Original rule filed February 28, 1983; effective March 30, 1983. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed December 14, 2006; effective date February 27, 2007. Amendments filed March 22, 2023; effective June 20, 2023.

1160-01-.04 INTERN SPONSORS.

The intern sponsor shall have the intern conduct at least fifty (50) polygraph examinations during the twelve (12) month internship period.

Authority: T.C.A. §§ 62-27-105(a)(1) and 62-27-111(b) and (f). **Administrative History:** Original rule filed February 28, 1983; effective March 30, 1983. Amendment filed August 26, 1986; effective November 29, 1986. Amendment filed June 20, 1990; effective August 4, 1990. Amendment filed December 14, 2006; effective date February 27, 2007.

1160-01-.05 COURSE OF STUDY FOR INTERNSHIP.

- (1) Following notification of approval to act as an intern sponsor, the sponsor should review the intern's notebook, prepared during the intern's attendance at polygraph school, to determine that the intern has received adequate basic instruction in all phases of physiology; psychology; question formulation; test question wording; techniques; instrumentation; chart interpretation; and other areas to provide the intern with knowledge necessary to pursue advance training in detection of deception.
- (2) Based upon this review and interview of the intern, the sponsor will determine the areas in which the intern appears weak or lacking basic understanding and will concentrate on these areas during the appropriate phase of the intern training.
- (3) During the first month of internship, the intern will:
 - (a) Study and become thoroughly knowledgeable of the Tennessee Polygraph Examiners Act, and the rules and regulations promulgated thereunder.
 - (b) Observe the sponsor conduct polygraph examinations, and analyze polygraph charts to demonstrate the intern's understanding of basic test construction, question formulation, and criteria for interpretation of truth and deception in polygraph examinations.
 - (c) Conduct polygraph examinations under the direct supervision, and in the presence, of the sponsor.
 - (d) Demonstrate proficiency in the operation of polygraph instruments, and be able to problem solve basic mechanical and electrical malfunctions of the instruments.
- (4) During the second month of internship:
 - (a) The sponsor will provide assistance and instruction necessary to assure that the intern understands the theory of Psychological Set, and that the intern demonstrates proficiency in formulation and introduction of control questions in the conduct of polygraph examinations utilizing the Backster; Zone of Comparison; MGZT (Mixed

(Rule 1160-01-.05, continued)

General Questions Test); Reid; R/I (Relevant/Irrelevant); and Peak of Tension polygraph techniques, and any other generally accepted testing techniques. Provided, however, that in no way should the aforementioned listing be utilized to limit the development and implementation of new polygraph techniques.

- (b) The intern will be permitted to conduct pre-employment, periodic, and specific polygraph examinations with limited supervision of the sponsor, if the geographic location of the sponsor and intern prevents direct supervision.
 - (c) The sponsor will review each examination conducted by the intern to ensure that the intern is utilizing proper techniques, chart markings, and proper criteria in analyzing polygraph recordings.
 - (d) The intern will demonstrate to the sponsor's satisfaction that he/she is knowledgeable of legal aspects of the polygraph technique.
- (5) At the conclusion of each sixty-day period, the sponsor will review with the intern the progress report submitted to the Commissioner.
- (6) During the remaining ten (10) months of an intern's internship period, the sponsor, at least one (1) time per week, will be physically present to observe the intern administer polygraph examinations and the sponsor will be available to assist the intern with any problems encountered relating to polygraph matters.
- (7) Throughout the period of internship, the intern will complete hypothetical problems (prepared by the sponsor) requiring construction of polygraph tests utilizing various approved techniques; and the sponsor will conduct a comprehensive interview of the intern to ensure that he/she is properly prepared to successfully complete the examination for a license as a polygraph examiner.

Authority: T.C.A. §§ 62-27-105, 62-27-111, 62-35-129, and 62-35-143. **Administrative History:** Original rule filed August 26, 1986; effective November 29, 1986. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed December 14, 2006; effective February 27, 2007. Amendments filed July 7, 2017; effective October 5, 2017. Amendments filed March 22, 2023; effective June 20, 2023.

1160-01-.06 PROFESSIONAL STANDARDS.

- (1) Before beginning an examination, the polygraph examiner shall:
 - (a) Give the examinee a reasonable explanation of the polygraph technique;
 - (b) Notify the examinee of the nature of the examination;
 - (c) Notify the examinee of his right to consult an attorney;
 - (d) If the examination is an employment examination, present to the examinee the following form:
- (2) Employment examination
 - (a) This examination will not cover any of the following areas, unless the examination is administered as a result of an investigation of illegal activity in such area, and the inability to pose relevant questions in relation to such illegal activity would be detrimental to such investigation:
 - 1. Religious beliefs or affiliations;

(Rule 1160-01-.06, continued)

2. Beliefs or opinions regarding racial matters;
 3. Political beliefs or affiliations;
 4. Beliefs, affiliations or lawful activities regarding unions or labor organizations;
 5. Sexual preferences or activities;
 6. Any disability covered by the Americans with Disabilities Act; or
 7. Actions or activities more than five (5) years preceding the date of the examination, except for felony convictions and violations of the Tennessee Drug Control Act, codified in title 39, chapter 17, part 4.
- (3) A polygraph examiner shall disclose to the examinee prior to the commencement of the examination that he or she is a law enforcement official or other officer of the court, and that should the examinee choose to proceed with the examination, that any illegal activity disclosed during such examination may be used against the examinee in a court of law.
- (4) A polygraph examiner shall maintain verification of compliance with paragraph (1) of this rule in the examiner's records.
- (5) A polygraph examiner shall not conduct a polygraph examination if he or she believes through observation or other credible evidence, that the examinee is physically or psychologically unfit for such examination.
- (6) A polygraph examiner shall appropriately mark all of the questions and answers on the polygraph chart during a polygraph examination. If a numbered question sheet is used, the number of the question and the answer shall be noted on the chart at the point asked, and the question sheet shall either be attached to the chart or entered in the examinee's file.
- (7) A polygraph examiner shall ensure that there is an interval of at least ten (10) seconds between the completion of the examinee's answer to a question and the beginning of the next question.
- (8) The polygraph examiner shall not render a verbal or written opinion, based on chart analysis, until the examinee:
- (a) Has been asked the same pertinent and relevant question(s) at least three (3) separate times; and
 - (b) Has been afforded a reasonable opportunity to explain any deceptive reactions which are evident on the charts unless the examinee is represented by legal counsel and such counsel requests the results be given to counsel rather than the examinee.
- (9) The polygraph examiner shall ensure that the inquiry, investigation, and interview in a pre-employment or employment verification examination shall be restricted to questions relevant to the examinee's suitability for the position of employment.
- (10) A polygraph examiner shall obtain signed notification from the examinee on a form prescribed by the Commissioner prior to the beginning of the examination. The notification shall include the following statements of understanding:

(Rule 1160-01-.06, continued)

- (a) I understand that I am voluntarily consenting to take this polygraph examination; that I have the right to refuse to take the examination; that I have the right to refuse to answer any question; and that I may terminate the examination at any time.
- (b) I understand that upon written request to the examiner within thirty (30) days of the examination, accompanied by payment of a reasonable fee not to exceed forty dollars (\$40.00), I shall be provided with a written copy of any opinions or conclusions rendered as a result of the examination within thirty (30) days of receiving the written request.
- (c) I understand that I or my attorney have/has the right to make an audio or video recording of the examination and pretest interview.
- (d) I understand that the Commissioner is located at 500 James Robertson Parkway, Davy Crockett Tower in Nashville, Tennessee 37243; and
- (e) I understand that this polygraph examination will be conducted by _____, located at
(name of examiner)

_____ Tennessee polygraph examiner license number
(address of examiner)

_____ or Tennessee polygraph examiner intern permit number
_____.

I certify that I have read and understand the above and that I have received a copy of this document.

Date

Signature of Examinee

Authority: T.C.A. §§ 62-27-105, 62-27-111, 62-27-123, 62-27-125, 62-35-129, and 62-35-143.
Administrative History: Original rule filed February 28, 1983; effective March 30, 1983. Amendment filed August 26, 1986; effective November 29, 1986. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed December 14, 2006; effective February 27, 2007. Amendments filed July 7, 2017; effective October 5, 2017. Amendments filed March 22, 2023; effective June 20, 2023.

1160-01-.07 CIVIL PENALTIES.

- (1) The Commissioner may, in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act), in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violations of statutes, rules, or orders enforceable by the Commissioner in accordance with the following schedule:

| Violation | Penalty |
|-------------------------------|-------------|
| Tenn. Code Ann. 62-27-117 (1) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (2) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (3) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (4) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (5) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (6) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (7) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (8) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (9) | 0 - \$1,000 |

(Rule 1160-01-.07, continued)

| | |
|--------------------------------|-------------|
| Tenn. Code Ann. 62-27-117 (10) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (11) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (12) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (13) | 0 - \$1,000 |
| Tenn. Code Ann. 62-27-117 (14) | 0 - \$1,000 |

- (2) In determining the amount of any penalty to be assessed pursuant to this rule, the Commissioner may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of noncompliance; and
 - (e) The interest of the public.

Authority: T.C.A. §§ 62-27-105, 62-35-129, and 62-35-143. **Administrative History:** Original rule filed August 26, 1986; effective November 29, 1986. Amendment filed June 20, 1990; effective August 4, 1990. Amendment filed September 19, 2003; effective December 3, 2003. Amendments filed March 22, 2023; effective June 20, 2023.

1160-01-.08 FEES FOR LICENSES.

- (1) The Commissioner shall charge a fee of one hundred dollars (\$100.00) for examinations. Such examinations are for the purpose of determining the fitness of a licensee to perform the functions of a licensee established in T.C.A. Title 62, Chapter 27. The Commissioner shall not issue a license until such fee is paid. Such fee may not be credited as payment against the license fee.
- (2) An applicant for a polygraph examiner's license or an internship permit shall pay a nonrefundable application fee of fifty dollars (\$50.00) to accompany the application submitted to the Commissioner.
- (3) The fee to be paid for an original polygraph examiner's license is one hundred and fifty dollars (\$150.00).
- (4) The fee to be paid for an internship permit or certificate is one hundred dollars (\$100.00).
- (5) The fee to be paid for the issuance of a duplicate polygraph examiner's license is twenty-five dollars (\$25.00).
- (6) The fee to be paid for a polygraph examiner's renewal license is one hundred dollars (\$100.00).
- (7) The fee to be paid for the extension of an internship permit or certificate is one hundred dollars (\$100.00).
- (8) The fee to be paid for a duplicate internship permit or certificate is twenty-five dollars (\$25.00).
- (9) The fee to be paid for a company license and renewal of such company license is five hundred dollars (\$500.00).

(Rule 1160-01-.08, continued)

- (10) Licenses shall be subject to late renewal for a period of six (6) months following their expiration date by payment of the renewal fee plus a penalty of one hundred dollars (\$100.00) for each month, or portion thereof, which elapses before payment is tendered.

Authority: T.C.A. §§ 62-27-105, 62-27-112, 62-35-129, and 62-35-143. **Administrative History:** Original rule filed July 14, 1989; effective August 26, 1989. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed December 14, 2006; effective February 27, 2007. Amendments filed March 22, 2023; effective June 20, 2023.