

329.010 Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Detection of deception examiner," referred to in this chapter as "examiner," means

any person, other than a trainee, who uses any device or instrument to test or question individuals for the purpose of detecting deception. Before a person may be

licensed as an examiner, he or she must have at least one (1) year's experience in detection of deception. Before an examiner may supervise a trainee, he or she must

have at least two (2) years' experience in detection of deception;

(2) "Trainee" means any person who has successfully completed a polygraph examiner's course at a polygraph examiner's school approved by the cabinet, but who has not been awarded the final certificate of proficiency or graduate certificate

from the school, or any person, not a licensed examiner, who administers detection

of deception examinations under the direct, personal supervision and control of a licensed examiner who is licensed by this state. No examiner may have more than two (2) trainees under his or her supervision and control at any one (1) time;

(3) "Person" means any natural person, partnership, association, corporation, or trust;

(4) "Cabinet" means the Justice and Public Safety Cabinet of the Commonwealth of

Kentucky;

(5) "Secretary" means the secretary of the Justice and Public Safety Cabinet of the

Commonwealth of Kentucky;

(6) "Polygraph" means an instrument which records permanently and simultaneously a

subject's cardiovascular and respiratory patterns and other physiological changes pertinent to the detection of deception; and

(7) "Polygraph examiner" means the same as detection of deception examiner.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 298, effective June 26, 2007. -- Amended

1978 Ky. Acts ch. 44, sec. 1, effective June 17, 1978. -- Amended 1974 Ky. Act

329.020 Examiner to use recording instrument.

Every examiner shall use an instrument which records permanently and simultaneously

the subject's cardiovascular and respiratory patterns as minimum standards, but such an

instrument may record additional physiological changes pertinent to the detection of

deception. The patterns required as minimum standards will be recorded throughout the

entire period of any detection of deception test.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 44, sec. 2, effective June 17, 1978. -- Created

329.030 License required to administer detection of deception examination --

Application -- Fingerprint data -- Qualifications -- Investigations -- Internship

-- Examination -- Administrative regulations to ensure adequate standards.

(1) No person shall administer a detection of deception examination, as set forth in

KRS 329.010, or any imitation thereof, without first securing a trainee's license or an examiner's license. Each application for a trainee's license shall be made to the cabinet within ten (10) days of the commencement of the trainee's internship, and

said application shall contain such information as may be reasonably required by the

cabinet. Each application for a trainee license or a renewal or extension shall be accompanied by a fee of twenty-five dollars (\$25), which is nonrefundable. Each application for an examiner's license shall be made to the cabinet in writing on forms provided by the cabinet and shall contain such information as may be required by the cabinet to determine the eligibility of the applicant. Each application

for an examiner's license shall be accompanied by a fee of fifty dollars (\$50), which

is nonrefundable.

(2) Each applicant for an examiner's license shall submit his or her fingerprints to the

cabinet. The cabinet is authorized to exchange fingerprint data with the Department

of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of the applicant. Each applicant shall also submit a sworn affidavit that said applicant:

(a) Is a citizen of the United States;

- (b) Is at least eighteen (18) years of age;
- (c) Has administered detection of deception examinations for a period of at least one (1) year using the instrumentation prescribed in KRS 329.020;
- (d) Has completed a course of formal training in detection of deception in an institution accepted by the cabinet;
- (e) Has not been convicted of a misdemeanor involving moral turpitude or a felony, or who has not been released or discharged under other than honorable conditions from any of the Armed Services of the United States, or any branch of the state, city or federal government; and
- (f) Any other information required by the cabinet to determine the examiner's competency to obtain a license to practice in this state.

(3) Upon receipt of an application for a trainee's license or for an examiner's license,

the secretary shall investigate each application, and no license will be issued until said investigation is complete.

(4) The cabinet shall establish such reasonable rules and regulations for the trainee

during his internship as may be reasonably necessary for the purpose of insuring that the trainee meets adequate professional standards established by the cabinet.

(5) The cabinet may require applicants for an examiner's license to pass an examination

which shall be confined to such knowledge, practical ability, and skill as is essential

for performing the duties of a detection of deception examiner. The cabinet shall

promulgate administrative regulations for conducting examinations and shall define

the standards to be acquired to constitute passing the examination.

(6) The cabinet shall promulgate administrative regulations for the purpose of insuring

that the examiner maintain adequate professional standards established by the cabinet

329.040 Issuance of license -- Renewal -- Fee.

(1) Each examiner's license shall be issued for the term of one (1) calendar year or for

such part thereof as remains at the time of the issuance thereof. Each examiner's license shall be renewed during the month of December of each year, and each examiner's license not so renewed shall expire on December 31 of that year. A renewal fee of forty dollars (\$40) shall accompany each renewal application for the

examiner's license.

(2) An examiner whose license has expired may, at any time within five (5) years after

the expiration thereof, obtain a renewal license by making a renewal application therefor and by paying a renewal license fee for each year since the expiration of his

license; provided, however, any examiner whose license expired while he was (a) on active duty with the Armed Forces of the United States, or (b) called into service

or training with the state militia, or (c) in a training or education program under the

supervision of the United States preliminary to induction into the military service, may have his license renewed without paying any intervening renewal license fee if

within two (2) years after termination of such service, training or education, except

under conditions other than honorable, he furnishes the cabinet an affidavit to the

effect that he has been so engaged and that his service, training or education has been so terminated. The secretary shall, before issuing the renewal license, investigate each applicant during the expiration period.

(3) Each trainee's license shall be issued for the term of twelve (12) months. The cabinet may renew or extend a trainee's license upon good cause shown for any term

not to exceed twelve (12) months. The fee for renewal or extension of a trainee's license shall be forty dollars (\$40).

329.043 Reciprocity.

An applicant who is an examiner, licensed under the laws of another state or territory of

the United States, may be issued a license without examination by the cabinet, in its

discretion, upon payment of a fee of fifty dollars (\$50), and the production of satisfactory

proof:

(1) That the applicant is at least eighteen (18) years of age; and

(2) That the applicant is a citizen of the United States; and

(3) That he is of good moral character; and

(4) That the requirements for the licensing of examiners in such state or territory of the

United States were at the date of licensing, substantially equivalent to the requirements then in force in this state; and

(5) That the applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state or territory for at least two (2) years prior

to his application for license hereunder; and

(6) That such other state or territory grants similar reciprocity to license holders of this

state.

329.050 License to be displayed -- Duplicate license -- Change of business location.

(1) A license or duplicate license must be prominently displayed at each place of business of every examiner or trainee. The fee for a duplicate license is five dollars

(\$5). Each license shall be signed by the secretary and shall be issued under the seal

of the cabinet.

(2) Notice in writing shall be given to the cabinet by such license holder of any change

of principal business location, whereupon the cabinet shall issue a new license for the unexpired period without charge. Such notice shall be given within thirty (30) days after the change of the principal business location. A change of business

location without notification to the cabinet and without the issuance by it of a new

license shall automatically suspend the license theretofore issued.

329.060 Nonresident applicants to consent to service of process on secretary.

Each nonresident applicant for a trainee's license or examiner's license or a renewal

license shall file an irrevocable consent that actions against the applicant may be filed in

any appropriate court of any county of this Commonwealth 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 in any action may be served on the applicant by leaving two (2)

copies thereof with the secretary of the cabinet. Such consent shall stipulate and agree

that such service of process shall be valid and binding for all purposes. The secretary shall

send forthwith one (1) copy of the process to the applicant by certified mail at the address

shown on the records of the cabinet

329.070 Denial, suspension or revocation of licenses -- Grounds.

The cabinet may deny, suspend or revoke any license on any one or more of the following grounds:

(1) Material misstatement in the application for a license or in the application for a

renewal license.

(2) Willful disregard or violation of this chapter or of any regulation or rule issued pursuant thereto.

(3) If the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor, if in accordance with KRS Chapter 335B.

(4) Making any willful misrepresentation or false promises or causing to be printed

any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees.

(5) Having demonstrated unworthiness or incompetency to act as an examiner or trainee, as defined under this chapter, in such manner as to effect the interests of the public.

(6) Allowing one's license under this chapter to be used by an unlicensed person in violation of the provisions of this chapter.

(7) Willfully aiding or abetting another in the violation of this chapter or of any regulation or rule issued pursuant thereto.

(8) Where the license holder has been adjudged mentally ill, mentally deficient or in need of mental treatment as provided in the Mental Health Code.

(9) Failing, within a reasonable time, to provide information requested by the cabinet as the result of a formal or informal complaint to the cabinet, which would indicate a violation of this chapter.

329.080 Unlawful act of examiner not grounds to revoke license of employer --

Exception.

Any unlawful act or violation of any of the provisions of this chapter, upon the part of any

examiner or trainee shall not be cause for revocation of the license of any other examiner

for whom the offending examiner may have been employed, unless it shall appear to the

satisfaction of the cabinet that the examiner has willfully aided or abetted the actions or

activities of the offending examiner or trainee.

329.090 List of examiners, trainees and cabinet actions to be published annually.

The cabinet shall publish, at least annually, a list of the names and addresses of all examiners and trainees and of all persons whose licenses have been suspended or revoked

within that one (1) year, together with such other information relative to the enforcement

of the provisions of this chapter as it may deem of interest to the public in the profession.

One (1) such list shall be mailed to the county clerk of each county of the Commonwealth

and shall be held by such county clerk as a public record. Such list shall also be mailed by

the cabinet to any person in the Commonwealth upon request

329.100 Hearing on complaint against applicant or licensee.

The cabinet may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts which if proved would constitute grounds for denial, suspension, or revocation of a license under this chapter, investigate the actions of any applicant or any person holding or claiming to hold a license. The cabinet shall, before denial, suspension, or revocation of a license conduct an administrative hearing in accordance with KRS Chapter 13B. The hearing shall determine whether the applicant or holder, called the respondent in this section and KRS 329.110, is privileged to hold the license.

329.110 Record of proceedings -- Service of secretary's report -- Motion for rehearing.

(1) The cabinet, at its expense, shall provide a stenographer to take down the testimony and preserve a record of all proceedings at the hearing of any case involving the denial, suspension or revocation of a license. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the secretary and orders of the cabinet shall be the records of such proceedings. The cabinet shall furnish a transcript of such record to any person interested in such hearing upon the payment

therefor of seventy-five cents (\$0.75) per page for each original transcript and twenty-five cents (\$0.25) per page for each carbon copy thereof ordered with the original; provided, however, the charge for any part of such transcript ordered and paid for previous to the writing of the original record therefor shall be twenty-five cents (\$0.25) per page.

(2) In any case involving the denial, suspension or revocation of a license, a copy of the secretary's report shall be served upon the respondent by the cabinet, either personally or by certified mail as provided in KRS 329.100 for the service of the notice of hearing. Within twenty (20) days after such service, the respondent may present to the cabinet a motion in writing for a rehearing, which written motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial, the secretary may enter an order in accordance with recommendations of the cabinet. If the respondent shall order and pay for a transcript of the record within the time for filing a motion for rehearing, the twenty (20) day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

329.120 Circuit Court jurisdiction to compel testimony or production of evidence.

Any Circuit Court may, upon application of the secretary or of the applicant or licensee

against whom proceedings upon KRS 329.100 are pending, enter an order requiring the

attendance of witnesses and their testimony, and the production of documents, papers,

files, books, and records in connection with any hearing in any proceedings under KRS

329.100.

329.130 Judicial review of cabinet orders.

Any person affected by a final administrative decision of the cabinet may have such

decision reviewed judicially by the Circuit Court of Franklin County.

329.140 Revoked or suspended license to be surrendered -- Enforcement.

Upon the revocation or suspension of any license, the licensee shall forthwith surrender

the license to the cabinet, and if the licensee fails to do so, the cabinet shall have the right

to seize the same.

329.150 Enjoining violations of or enforcing compliance with chapter.

If any person violates the provisions of this chapter, the secretary shall, in the name of the

people of the Commonwealth of Kentucky, through the Attorney General of the

Commonwealth of Kentucky, apply, in any court of competent jurisdiction, for an order

enjoining such violation or for an order enforcing compliance with this chapter.

Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this chapter.

329.160 Effect of signed and sealed cabinet order.

An order or a certified copy thereof, over the seal of the cabinet and purporting to be

signed by the secretary, shall be prima facie proof thereof:

- (1) That such signature is the genuine signature of the secretary;
- (2) That such secretary is duly appointed and qualified; and
- (3) That the secretary and cabinet thereof are qualified to act

329.170 Governmental entities exempt from fee requirements.

Subsection (1) of KRS 329.030, subsections (1) and (3) of KRS 329.040 and subsection

(1) of KRS 329.050, relating to fees charged applicants for a license, shall not apply to

any department of the United States or any agency of the city, county or state, provided

that no fee is charged for administration of the test.

329.250 Requirements for recognition of polygraph examiner's school.

(1) In order to be recognized as an accepted training institution for detection of deception examiners by the cabinet, a polygraph examiner's school must offer at

least two hundred and forty (240) hours of classroom training and instruction consisting of, but not limited to, the following subjects:

- (a) Instrumentation of the instrument prescribed in KRS 329.020;
- (b) Psychology;
- (c) Physiology;
- (d) Question formulation;
- (e) Chart interpretation;
- (f) Interrogation;
- (g) History and legal ethics of the polygraph;
- (h) Supervised practice examinations; and
- (i) Any other courses necessary to assure adequate training of detection of deception examiners.

(2) At the request of the cabinet, a polygraph examiner's school must furnish the cabinet with a course outline, the number of hours taught for each subject, the names and professional history of its owners, staff and instructors, and any other information required by the cabinet so it may determine that the school is an acceptable training institution. Unless the requested information is furnished to the

cabinet and the school is accepted as a training institution, no graduate of the school

may be licensed by the cabinet.

329.990 Penalties.

Any person who violates any of the provisions of this chapter shall, for each violation, be

fined not less than twenty dollars (\$20) nor more than five hundred dollars (\$500).