

DECEPTION DETECTION EXAMINERS LICENSING ACT

Part 1 - General Provisions

58-64-101. Title.

This chapter is known as the "Deception Detection Examiners Licensing Act."

58-64-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Deception Detection Examiners Board created in Section 58-64-201.
- (2) "Deception detection examination" means the use of an instrument on an individual for the purpose of detecting whether that individual is engaged in deception.
- (3) "Deception detection examiner" means an individual who engages in or represents that the individual is engaged in conducting or performing deception detection examinations or in the interpretation of deception detection examinations.
- (4) "Deception detection intern" means an individual who engages in deception detection examinations under the supervision and control of a deception detection examiner for the purpose of training and qualification as a deception detection examiner.
- (5) "Instrument" means a polygraph, voice stress analyzer, or any other device that records the examinee's cardiovascular patterns, respiratory patterns, galvanic skin response, or other physiological characteristics of the examinee for the purpose of monitoring factors relating to whether the examinee is truthful or engaged in deception.
- (6) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-64-501.
- (7) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-64-502 and as may be further defined by rule.

Part 2 - Board

58-64-201. Board.

- (1) There is created the Deception Detection Examiners Board consisting of:
 - (a) three individuals who are licensed as deception detection examiners;
 - (b) one individual from among nominees of the Commissioner of Public Safety;
 - (c) one individual from among nominees of the Utah Peace Officers Association;
 - (d) one individual from among nominees of the Utah State Bar; and
 - (e) one individual representing the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensing

58-64-301. Licensure required - License classifications.

- (1) A license is required to engage in the practice of deception detection, except as specifically provided in Section 58-64-304 or 58-1-307.
- (2) The division shall issue to an individual who qualifies under this chapter a license in the classifications of:
 - (a) deception detection examiner; or
 - (b) deception detection intern.

58-64-302. Qualifications for licensure.

- (1) Each applicant for licensure as a deception detection examiner shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the duties and responsibilities of a deception detection examiner is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;
 - (d) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
 - (e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;
 - (f) have completed one of the following:
 - (i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;
 - (ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or
 - (iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);
 - (g) have successfully completed a training program in detection deception meeting criteria established by rule by the division in collaboration with the board; and
 - (h) have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.
- (2) Each applicant for licensure as a deception detection intern shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the duties and responsibilities of a deception detection intern is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;
 - (d) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

- (e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;
 - (f) have completed one of the following:
 - (i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;
 - (ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or
 - (iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);
 - (g) have successfully completed a training program in detection deception meeting criteria established by rule by the division in collaboration with the board; and
 - (h) provide the division with an intern supervision agreement in a form prescribed by the division under which:
 - (i) a licensed deception detection examiner agrees to supervise the intern; and
 - (ii) the applicant agrees to be supervised by that licensed deception detection examiner.
- (3) To determine if an applicant meets the qualifications of Subsection (1)(c) or (2)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:
- (a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and
 - (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.
- (4) The Department of Public Safety shall send to the division:
- (a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and
 - (b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.
- (5) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.
- (b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.
- (6) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purposes of determining if an applicant for licensure under this chapter is qualified for licensure.

58-64-303. Term of license - Expiration - Renewal.

- (1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal

- cycles it administers.
- (2) At the time of renewal, the licensee shall show satisfactory evidence of having performed not less than 25 deception detection examinations during the two years immediately preceding the date of the renewal notice.
 - (3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

58-64-304. Exemptions from licensure.

The exemptions from licensure under the provisions of this chapter are limited to those set forth in Section 58-1-307.

58-64-305. Status of licenses held on the effective date of this chapter.

An individual holding a valid Utah license as a deception detection examiner or detection examiner intern under Title 53, Chapter 5, Part 3, Deception Detection Examiners Act, on July 1, 1995, is:

- (1) on or after July 1, 1995, considered to hold a current license under this chapter in the comparable classification of deception detection examiner, or deception detection intern; and
- (2) subject to this chapter.

Part 4 - License Denial and Discipline

58-64-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Part 5 - Unlawful and Unprofessional Conduct - Penalties

58-64-501. Unlawful conduct.

"Unlawful conduct" includes:

- (1) a licensee conducting a deception detection examination:
 - (a) outside of the physical presence of the subject of the examination;
 - (b) on the subject of the examination by use of any electronic means, including the telephone; and
 - (c) through any surreptitious means when the subject of the examination is now aware of the examination; and
- (2) conducting a deception detection examination if the individual performing the deception detection examinations is located outside of the state performs a deception detection examination by any electronic means upon a person located within the state.

58-64-502. Unprofessional conduct.

"Unprofessional conduct" includes:

- (1) using any deception detection instrument that does not meet criteria and standards established by rule by the division in collaboration with the board; and
- (2) using any deception detection instrument that does not make a permanent recording as required under Section 58-64-601.

Part 6 - Operating Standards

58-64-601. Deception detection instruments.

- (1) Instruments used in performing deception detection shall be those that are generally recognized in the profession.
- (2) An instrument used for deception detection shall have a permanent recording produced by the instrument for objective analysis by the examiner, the division, or the board.
- (3) A written interpretation by an examiner while conducting a deception detection examination does not satisfy the requirements of a permanent recording.

Part 7 - Regulatory Jurisdiction

58-64-701. State preemption of local regulation.

- (1) A political subdivision of this state may not enact any legislation, code, or ordinance, or make any rules relating to the licensing, training, or regulation of deception detection examiners or interns.
- (2) Any legislation, code, ordinance, or rules made by any political subdivision of this state, relating to the licensing, training, or regulation of deception detection examiners or interns is superseded by this chapter.

**DECEPTION DETECTION EXAMINERS
LICENSING ACT**

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