

## **Title 30: Professions and Occupations**

### **Part 1402: Rules and Regulations of Polygraph Examiners Act and Board Regulations**

#### **Part 1402 Chapter 1: Rules and Regulations**

*Rule 1.1* References Section 5, Paragraph (a), Polygraph Examiners Act, 1968, (S.B. 1987), the following rules, resolutions, regulations, directives, approvals, and agreements, pertaining to the general requirements for the licensing of polygraph examiners, and to the standards to be observed by polygraph examiners in the conduct of polygraph examinations, reflect the will of the Board of Professional Polygraph Examiners of the State of Mississippi and were adopted and recorded in the minutes of the Board on the dates cited.

RE: Section 73-29-5 of THE MISSISSIPPI CODE OF 1972

Section 5: (a) The Board shall issue regulations consistent with the provisions of this act, for the administration and enforcement of this act and shall prescribe forms, which shall be issued in connections therewith.

Source: *Miss. Code Ann. §73-29-9*

#### *Rule 1.2 General Rules and Regulations.*

- (1) A list of Board rules, resolutions, regulations, directives, approvals, and agreements, pertaining to the general requirements for the licensing of the polygraph examiners, and to the standards to be observed by polygraph examiners in the conduct of the polygraph examinations, shall be published the distributed to all currently licensed Mississippi polygraph examiners and to all applicants for licenses, as a Mississippi polygraph examiner. (2/24/73)
- (2) Approval of Polygraph Schools: American Polygraph Association approved schools. (5/20/77)
- (3) Internship Requirements: Applicants for internship licenses shall submit an internship instructor questionnaire. Any approved school or examiner, licensed in the State of Mississippi, may administer the internship program, upon approval of this Board, until such time as said school or examiner demonstrates its or his inability to administer such program. (4/19/69)
- (4) Written Examinations and Completion of Internship:
  - (a) Written examinations required, before being licensed as an intern examiner, at the discretion of the Board; excluding those applicants from States holding reciprocity agreements with Mississippi. (2/24/73)
  - (b) Upon completion of the internship period, the intern and sponsor shall petition the Board to consider applicant for full examiner status.

- (c) The intern shall then appear before the Board, for an oral review of his progress and understanding of the polygraph technique and the Polygraph Examiners Act. (Unless specifically waived by Board)
- (5) Renewal of License: All applicants for renewal of license, at the discretion of the Board, may be required to appear for a written or oral examination; if complaints have been made against him, regarding his ethics, alleged violations of the Board's regulations, or his competency to serve as a polygraph examiner. The original certificate of license and wallet-size license shall remain the property of the State of Mississippi, and shall be returned to this Board, at such time this license is not renewed, is suspended, or revoked. (2/24/73) (4/27/79)
- (6) Anyone holding a Mississippi polygraph license or applicant for a Mississippi polygraph license, may be requested to meet with this Board, to furnish such documents and/or information, as required by said Board, answering questions as to his competency as a polygraph examiner, or answer charges of violations of this Polygraph Examiners act or rules and regulations of this Board.
- (7) Executive Secretary authorized to sign, renew and process the wallet size license is approved by Board. (2/10/69)
- (8) Certified military polygraph examiners, with a minimum of two (2) years experience, shall be licensed under Section (11) of the Polygraph Examiners Act. (11/10/78)
- (9) Upon request, furnish board with certification that applicant has not conducted any polygraph examinations in the State of Mississippi. (5/13/78)

Source: *Miss. Code Ann. §73-29-9*

*Rule 1.3 Code Of Operating Procedure For Polygraph Examiners*

- (1) All polygraph charts should be marked with appropriate stimulus markings, question identification markings, and answer markings, at the point and place the question was asked and answer given.
- (2) Any polygraph charts, question sheet, signed subject agreement to submit to the examination, written reports, examiner opinions, or any other pertinent papers, shall be attached together and maintained for a minimum period of two (2) years, following the examination; and shall be available to the Board and/or its representative, upon request of the Board.
- (3) The polygraph examiner shall not question any subject on his or her sexual behavior, or ask any question that can be construed as being sexually oriented, unless the topic is a specific issue and he or she has been advised of this. Any examination of a criminal nature shall be exempt from the provision of this paragraph.

- (4) The polygraph examiner shall not abuse any subject and shall conduct himself in a professional manner.
- (5) All out-of-state license holders, who do not maintain an office in the State of Mississippi, shall register their Mississippi polygraph license with the Secretary of State, Jackson, Mississippi.
- (6) No polygraph examiner shall polygraph any person under the age of 12.

Source: *Miss. Code Ann. §73-29-9*

*Rule 1.4 Polygraph Examiner Internship Rules And Regulations.* The following rules and regulations pertaining to the internship program, under the Mississippi Board of Polygraph Examiners Act, Senate Bill No. 1987, shall be and are hereby designated the rules and regulations of this Board.

- (1) Primary Intern: (Minimum of Twelve (12) months)

Applicant meeting the requirements of Section 7 of the Polygraph Examiners Act, but not having completed an approved polygraph examiner school. (Schedule of training requirements available, upon request.)

- (2) Advanced Intern: (Minimum of six (6) months)

- (a) An applicant meeting the requirements of Section 7 of the Polygraph Examiners Act, and,
- (b) Having completed an approved polygraph school, and,
- (c) Having passed a written examination administered by the Board of Polygraph Examiners or its designated representative.

- (3) Advanced Intern Training and Supervision:

- (a) Completion of American Polygraph Association approved polygraph examiner school.
- (b) Or completion of primary internship program.
- (c) Passing State polygraph examination with score of 70% or better. Applicants failing examination may retake such examination, only after showing proof of additional studies under instructor, who has been approved by this Board, or an approved school. Any applicant failing examination for the third time shall not be eligible to take another examination, until the expiration of a one (1) year period from the last failed examination.

- (d) Advanced intern may conduct polygraph examination without the direct supervision of instructor/sponsor.
- (e) Each sponsoring polygraph examiner shall submit progress reports to the Board every thirty (30) days, on forms provide by the Board.
- (f) Sponsor shall be reasonably available to assist advanced intern and answer questions. Meetings between the sponsor and intern shall be conducted every thirty (30) days, to discuss progress and complete reports, as required by Section 3, Paragraph (e). (Meetings may be waived by the Board, in the event the sponsor is an approved school.)

(4) Qualification For Instructors And Sponsors

- (a) Polygraph examiner licensed by the State of Mississippi for a period of three (3) or more consecutive years\* and,
- (b) Polygraph examiner who has administered at least 500 examination during the past three (3) years.\*
- (c) Instructor shall be limited to three (3) interns under their supervision, at any one time (unless otherwise approved by this Board.)
- (d) No examiner shall be approved as an instructor/sponsor, if this Board has received reliable information and/or has reason to believe that this individual is not adaptable for this duty.
- (e) An applicant is encouraged to intern under an examiner located in his immediate geographic area.

\*(The three (3) years and 500 examinations may be waived by the Board)

REVISED: December 1, 1994

(These rules and regulations may be revised periodically at the discretion of the Board of Professional Polygraph Examiners of the State of Mississippi.)

Source: *Miss. Code Ann. §73-29-9*

**Part 1402 Chapter 2: Organization of the MS Polygraph Examiner's Board**

*Rule 2.1 MS Polygraph Examiner's Board Organization.* The MS Polygraph Examiner's Board is established under the following provisions in accordance to the MS Code Annotated Section 73-29-7:

- (1) There is hereby established a polygraph examiners board consisting of three (3) members who shall be citizens of the United States and residents of the state for at least two (2) years prior to appointment and at the time of appointment are active polygraph examiners. No two (2) board members may be employed by the same person or agency. At least one (1) member must be a qualified examiner of a governmental law enforcement agency, and shall be the supervisor of the polygraph section of the department of public safety, and at least one (1) member must be a qualified polygraph examiner in the commercial field. The members shall be appointed by the governor of the State of Mississippi with the advice and consent of the senate for a term of six (6) years. The terms of office of members appointed to the initial board are one (1) for two (2) years; one (1) for four (4) years; and one (1) for six (6) 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.
- (2) The board shall elect a chairman, vice-chairman, and secretary from among its members.
- (3) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.
- (4) The members of the board shall receive Twenty-two Dollars and Fifty Cents (\$22.50) per diem for each day spent in the actual discharge of their duties.
- (5) The Department of Public Safety is hereby authorized to provide the board with an appropriate office and such administrative and clerical services as may be necessary to carry out the board's responsibilities, including investigative and testing services, budgetary support and such other services and support deemed appropriate by the Commissioner of Public Safety.

Source: *Miss. Code Ann. §73-29-7*

### **Part 1402 Chapter 3: Oral Proceedings/Public Comment Hearings**

*Rule 3.1 Application of Chapter.* This chapter applies to all oral proceedings held for the purpose of providing the public an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the MS Polygraph Examiner's Board.

Source: *Miss. Code Ann. §73-29-9*

*Rule 3.2 Request for Oral Proceeding.* When a political subdivision, an agency, or a citizen requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request. When an oral proceeding has not been scheduled by the MS Polygraph Examiner's Board, an oral proceeding will be scheduled when a written request is submitted by a political subdivision, an agency, or ten (10) or more persons.

- (1) Each request must be submitted on 8-1/2" x 11" white paper.
- (2) The request may be in the form of a letter addressed to the MS Polygraph Examiner's Board or in a form of a pleading as if filed with a court.
- (3) Each request must include the full name, telephone numbers, and mailing address of the requestor (s).
- (4) All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann. §73-29-9*

*Rule 3.3 Notice of Oral Proceedings.* Notice of the date, time, and place of all oral proceedings shall be filed with the MS Polygraph Examiner's Board. The MS Polygraph Examiner's Board shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the MS Polygraph Examiner's Board. The President of the MS Polygraph Examiner's Board or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann. §73-29-9*

*Rule 3.4 Public Participation Guidelines.* Public participation shall be permitted at oral proceedings in accordance with the following:

- (1) At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions.
- (2) Persons wishing to make oral presentations at such a proceeding shall notify the MS Polygraph Examiner's Board at least three (3) business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the MS Polygraph Examiner Board prior to the proceeding.
- (3) At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
- (4) The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

- (5) Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
- (6) Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceedings, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: *Miss. Code Ann. §73-29-9*

*Rule 3.5 Submissions and Records.* Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the MS Polygraph Examiner's Board, part of the rulemaking record, and are subject to the MS Polygraph Board's record request procedure. The MS Polygraph Examiner's Board may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann. §73-29-9*

#### **Part 1402 Chapter 4: Declaratory Opinions**

*Rule 4.1 Application of Chapter.* This chapter sets forth the MS Polygraph Examiner's Board's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the MS Polygraph Board's procedures regarding the disposition of requests as required by Mississippi code § 73-29-39.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.2 Scope of Declaratory Opinions.* The MS Polygraph Examiner's Board will issue declaratory opinions regarding the applicability to specified facts of:

- (1) A statute administered or enforceable by the MS Polygraph Examiner's Board,
- (2) A rule promulgated by the MS Polygraph Examiner's Board, or
- (3) An order issued by the MS Polygraph Examiner's Board.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.3 Scope of Declaratory Opinion Request.* A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.4 How to Submit Requests.* When a person with substantial interest requests a declaratory opinion, the person must submit a printed, typewritten, or legibly handwritten request.

- (1) Each request must be submitted on 8-1/2" x 11" white paper.
- (2) The request may be in the form of a letter addressed to the MS Polygraph Examiner's Board or in the form of a pleading as if filed with a court.
- (3) Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- (4) All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
- (5) Each request must clearly state that it is a request for declaratory opinion.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.5 Signature Attestation.* Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.6 Request Content Requirement.* Each request must contain the following:

- (1) A clear identification of the statute, rule, or order at issue;
- (2) The question for the declaratory opinion;
- (3) A clear and concise statement of all facts relevant to the question presented;
- (4) The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number.
- (5) A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.7 Reasons for Refusal of Declaratory Opinion Request.* The MS Polygraph Examiner's Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- (1) The matter is outside the primary jurisdiction of the MS Polygraph Examiner's Board;
- (2) Lack of clarity concerning the question presented;
- (3) There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- (4) The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- (5) The facts presented in the request are not sufficient to answer the question presented;
- (6) The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- (7) The requestor seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;
- (8) No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
- (9) The question presented by the request concerns the legal validity of a statute, rule, or order;
- (10) The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
- (11) No clear answer is determinable;
- (12) The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
- (13) The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

- (14) A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or
- (15) The question involves eligibility for a license, permit, certificate or other approval by the MS Polygraph Examiner's Board.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.8 Board Response.* Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the MS Polygraph Examiner's Board shall, in writing:

- (1) Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
- (2) Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
- (3) Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day on or after which the request is received by the MS Polygraph Examiner's Board.

Source: *Miss. Code Ann. §73-29-39*

*Rule 4.9 Availability of Declaratory Opinions and Requests for Opinions.* Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by requestor name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann. §73-29-39*