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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Private Investigation and Polygraph Commission
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1175-01	Private Investigation and Polygraph Commission
Rule Number	Rule Title
1175-01-.03	Finger Printing
1175-01-.04	Applicants for Licenses
1175-01-.11	License Fees
1175-01-.12	Renewal Fees
1175-01-.17	Retired Licenses
1175-01-.18	Exceptions to Applicability
1175-01-.19	Evaluation of Required Experience
Chapter Number	Chapter Title
1175-02	Continuing Professional Education
Rule Number	Rule Title
1175-02-.08	Failure to Complete Required Continuing Professional Education
Chapter Number	Chapter Title
1175-04	Rules of Professional Conduct and Standards of Practice
Rule Number	Rule Title
1175-04-.06	Misconduct
Chapter Number	Chapter Title
1160-02	Polygraph Examiner Continuing Education
Rule Number	Rule Title
1160-02-.02	Basic Requirements

1160-02-03	Qualifying Programs
1160-02-04	Control and Reporting Systems

Chapter 1175-01
Private Investigation and Polygraph Commission

Amendments

Paragraph (1) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) An applicant shall furnish the commission with three (3) sets of classifiable fingerprints with his or her application for the purpose of allowing the commission to forward the fingerprints to the Tennessee Bureau of Investigation (TBI) and Federal Bureau of Investigation (FBI) as required by T.C.A. §§ 62-26-205 and 62-26-208. An applicant shall be deemed to have furnished the commission with three (3) sets of classifiable fingerprints if he or she causes a private company contracted by the State to electronically transmit the applicant's classifiable prints directly to the TBI and FBI and to forward a classifiable hard copy of the applicant's fingerprints to the commission on standard TBI/FBI applicant cards. The commission shall notify every applicant in writing of the name, address and telephone number of any company contracted by the State to provide such a service. All private investigator and investigations company applicants shall comply with the following requirements regarding payment for the fingerprinting service:
 - (a) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant;
 - (b) If the applicant chooses to request that the commission process the fingerprint cards, then the applicant shall submit with his or her application three (3) sets of classifiable fingerprints on cards provided by the commission for processing through the TBI and FBI. The applicant shall pay to the commission all processing fees established by the TBI and FBI.
 - (c) If the applicant chooses to use the services of a company that has contracted with the state to provide electronic fingerprinting service, then the applicant shall make the arrangements for the processing of his or her fingerprints with the company directly and shall be responsible for payment of any fees associated with processing of fingerprints to the respective agency.
 - (d) In the event the State no longer contracts with any company to provide an electronic fingerprinting service, then the applicant shall submit three (3) classifiable TBI and FBI fingerprint cards with his or her application and shall pay the commission all processing fees established by the TBI and FBI.
 - (e) Applicants shall in all cases be responsible for paying application fees as established by the commission regardless of the manner of fingerprinting the applicant chooses.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303.

Paragraph (2) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable in nature to the commission, or the Tennessee Bureau of Investigation (TBI) or Federal Bureau of Investigation (FBI), the commission may refuse to issue the requested license. For the purposes of this rule, "unclassifiable fingerprints" means that the electronic scan or the print of the person's fingerprints cannot be read, and therefore cannot be used to identify the person. Should an applicant's fingerprints be rejected by the TBI or FBI, the applicant shall pay any fees assessed by the TBI or FBI for resubmission.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303.

Rule 1175-01-.04 Applicants for Licenses is amended by adding new subparagraphs (5), (6), (7), (8) and (9) that shall read:

- (5) An applicant denied for material misstatement is not eligible to reapply for licensure for a period of six (6) months from the date of denial. Appeals must be submitted to the commission in writing within thirty (30) days from the denial. All documentary dispositions and required court documents must be provided prior to a scheduled appeal hearing before the commission.
- (6) Disposition of the following crimes or actions taken by an authority having jurisdiction may disqualify an applicant, subject to the discretion of the commission:
 - (a) Conviction by any local, state, federal, or military court of any crime involving the illegal sale, manufacture, distribution, or transportation of a controlled substance, drug, or narcotic;
 - (b) Conviction of any felony;
 - (c) Conviction of a crime involving unlawful breaking and entering, burglary, larceny, or arson;
 - (d) Conviction as a habitual criminal;
 - (e) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C.A. § 921(33);
 - (f) Any misdemeanor conviction involving:
 - 1. Shooting a firearm or other weapon;
 - 2. Shoplifting; or
 - 3. Assault and battery or other act of violence against persons or property.
- (7) An applicant may be disqualified for licensure for habitual drunkenness; narcotics addiction or dependence; and/or unlawful use of or addiction to any controlled substance, as defined in section 102 of the Controlled Substances Act, 21 U.S.C.A. § 902(6). This prohibition includes any person who is a current user of a controlled substance. The commission may draw an inference of current use from recent use or possession of a controlled substance, e.g., positive drug test upon arrest or during probation within the past year; a conviction for use or possession of a controlled substance within the past year; or multiple arrests for such offenses within the past five (5) years if the most recent arrest occurred within the past year.
- (8) An applicant may be disqualified for licensure for having been discharged from the armed forces under conditions less than honorable.
- (9) An applicant may be disqualified for licensure for being subjected to a court order restraining the applicant from committing an act of domestic violence. The order must have been issued after a hearing during which the person restrained received actual notice of the hearing and had an opportunity to participate in any proceedings. The restrained individual need have only an opportunity to participate in any proceedings; consequently, failure to appear at the proceeding or consent to the entry of the order without a hearing does not affect this prohibition. Consent orders and orders entered by a court of competent jurisdiction upon the applicant's failure to appear qualify under this prohibition.

Authority: T.C.A. §§ 62-26-205, 62-26-206, 62-26-208, 62-26-217, and 62-26-303.

Rule 1175-01-.11 License Fees is amended by adding a new subparagraph (4) that shall read:

- (4) For the purposes of assessing the correct investigations company application and license fees, the employees referenced in T.C.A. § 62-26-208(a) and (b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated with the investigations company. Investigations company license applicants whose licenses have not yet been issued and who prior to such issuance add any number of investigators above that number listed when application was made shall, prior to issuance, pay all application and license fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the initial application. An individual who applies for an investigations company license but is not a licensed private investigator and who at the time of issuance of that license has not yet employed a licensed private investigator shall be considered a sole practitioner for the purpose of issuing the license.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303.

Rule 1175-01-.12 Renewal Fees is amended by adding new subparagraphs (3) and (4) that shall read:

- (3) For the purposes of assessing the correct investigations company renewal fees, the employees referenced in T.C.A. § 62-26-211(b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated with the investigations company. Investigations company license renewal applicants whose licenses have not yet been renewed and who prior to such renewal add any number of investigators above that number listed when renewal application was made shall, prior to renewal, pay all renewal fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the renewal application. Upon the employment of licensed private investigators, an individual holding an investigations company license as a sole proprietor pursuant to paragraph (4) of rule 1175-01-.11 shall not be counted in the total number of private investigators employed by that investigations company for the purpose of assessing the correct investigations company renewal fee.
- (4) All late fees must be paid within the thirty (30) days prescribed by T.C.A. § 62-26-211(c).

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-211, and 62-26-303.

Rule 1175-01-.17 Retired Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 1175-01-.17 shall read:

- (1) A private investigator who has retired his or her license shall remain subject to the disciplinary provisions contained in T.C.A. § 62-26-217 and shall be obliged to comply with the notice provisions contained in T.C.A. § 62-26-213.
- (2) For the purpose of retirement of a private investigator license, the licensee must be in good standing with the commission and in compliance with all applicable law and rules.
- (3) Prior to returning the license to an active status, the licensee must have an affiliation with a licensed investigations company and will be required to complete the continuing professional education requirements for the renewal period from which the license is returned to active status.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-211, 62-26-225, and 62-26-303.

Rule 1175-01-.18 Exceptions to Applicability is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 1175-01-.18 shall read:

- (1) For purposes of T.C.A. § 62-26-223(b)(3)(A), the term "employee" shall be defined as an individual to whom wages are paid by the attorney or law firm and from whose wages Federal Income Tax and/or Federal Insurance Contributions Act monies are withheld by the attorney or law firm.
- (2) The activities performed by the National Insurance Crime Bureau, a non-profit organization, are not required to be performed by a licensed private investigator.

- (3) Persons performing the duties of a mortgage default inspector are not required to obtain a private investigator license provided that these persons only interview the homeowner/mortgagor to determine the reason for delinquency in payments. Additionally, if the property is vacant or appears to be so, the company representative performing these duties may talk to neighbors to verify occupancy status of the subject property and, after completion of duties, may file a report with the mortgage company detailing the findings.
- (4) Persons who perform the services of a "mystery shopper" or who are employed as a "mystery shopper" are not required to be licensed as a private investigator, as long as the "mystery shopper" is not performing private investigation services as defined in T.C.A. § 62-26-202(6) and (10). A "mystery shopper" is someone who is employed by a retail organization to assess the functioning of the retail organization, including but not limited to customer service and product quality.
- (5) Court reporters and persons who perform videographer services for depositions are not required to obtain a private investigator license.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-223, and 62-26-303.

Chapter 1175-01
Private Investigation and Polygraph Commission

New Rules

Table of Contents

1175-01-.19 Evaluation of Required Experience

1175-01-.19 Evaluation of Required Experience.

- (1) An applicant for an investigations company license may meet the experience requirement of T.C.A. § 62-26-206 by submitting a detailed résumé, a sworn statement that the applicant has the minimum amount of experience for the appropriate designation, and verification of two thousand (2,000) hours of compensated investigative experience. Acceptable proof of experience includes documentation from previous employers, submitted on each previous employer's letterhead, stating the number of hours for which the applicant was compensated and a detailed job description showing actual work experience as a private investigator. The commission may consider other proof in its discretion.
- (2) An applicant for an investigations company license may meet the education requirement of T.C.A. § 62-26-206 by submitting to the commission transcripts from an accredited college or university showing the course of study along with the number of hours completed and evidence of any degree earned. The commission has the discretion to review any submitted degree programs and fields of study for acceptability.
- (3) Military service may be acceptable experience to meet these qualifications if the applicant documents two thousand (2,000) hours of verifiable, compensated experience while serving in an investigative capacity with any federal, U.S. armed forces, state, county or municipal law enforcement agency or any other governmental agency.
- (4) Out-of-state applicants who own or operate their own investigations company, and who are not required to hold a license or registration in their state of residence, must provide the following documentation:
 - (a) A city, county or state business license showing the issuance and expiration date;
 - (b) A federal tax identification;
 - (c) Federal tax returns; and/or
 - (d) Corporate charter information documenting which state the applicant corporation was originally chartered in and the date on which the applicant corporation was chartered.

- (e) The commission may consider documentation other than the above as acceptable in its discretion.
- (5) A "letter of good standing" is required from each jurisdiction for which the applicant holds a license or registration. The "letter of good standing" must detail how the applicant qualified for the license or registration, the date on which the license or registration was issued and the current license or registration status. A statement regarding any disciplinary action taken against the license or registration in any applicable jurisdiction is also required.

Authority: T.C.A. §§ 62-26-206 and 62-26-303.

Chapter 1175-02
Continuing Professional Education

Amendments

Rule 1175-02-.08 Failure to Complete Required Continuing Professional Education is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, rule 1175-02-.08 shall read:

If the required continuing professional education is not completed on or prior to the expiration date of the license, a late fee will be assessed. If the required continuing education is not completed within thirty (30) days of the license expiration date, the renewal application will not be accepted or approved. If a late fee is assessed, no license will be approved until such late fee is paid in full.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-211, 62-26-217, 62-26-225, and 62-26-303.

Chapter 1175-04
Rules of Professional Conduct and Standards of Practice

Amendments

Paragraph (5) of rule 1175-04-.06 Misconduct is amended by deleting the text of the paragraph in its entirety and substituting instead the following so that, as amended, paragraph (5) of rule 1175-04-.06 shall read:

- (5) Misrepresentation of qualifications and identity.
 - (a) The licensee shall not falsify or permit misrepresentation of his or her or his or her associates' academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures, or his or her past accomplishments with the intent and purpose of enhancing his or her qualifications.
 - (b) Production and/or use of any printed matter or promotional materials, including but not limited to radio, television, internet or print advertising, letterhead, business cards or flyers which do not bear the true name(s) under which the licensee is licensed by the commission as a private investigator or an investigations company shall constitute misrepresentation. The true name of the licensee private investigator or investigations company shall accompany any D/B/As, A/K/As and alias names under which the licensee operates.
 - (c) Failure by a private investigator to indicate the investigations company to whom the private investigator is affiliated on any printed matter or promotional materials, including but not limited to radio, television, internet or print advertising, letterhead, business cards or flyers shall constitute misrepresentation.

- (3) If any continuing education credit hours claimed in a statement submitted by a licensee pursuant to paragraph (1) of this rule are disapproved, the Tennessee Private Investigation and Polygraph Commission shall notify such licensee of the reason for the disapproval. The Tennessee Private Investigation and Polygraph Commission may allow thirty (30) days for correction of the deficiencies noted.
- (4) The Tennessee Private Investigation and Polygraph Commission will verify information submitted by licensees under this rule on a periodic basis.

Authority: T.C.A. §§ 62-27-105 and 62-27-109.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Minnie Ann Lane Chair	X				
Kendall Shull Vic-Chair	X				
Janice D. Holt				X	
David W. Horton				X	
Audrey J. Moore	X				
Paul A. Ritch	X				
Alan G. Rousseau	X				
David L. Schenkel	X				
Walter Valentine	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Private Investigation and Polygraph Commission on 04/15/2011, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/25/2011

Rulemaking Hearing(s) Conducted on: (add more dates). 04/15/2011

Date: 1.10.2012

Signature: [Handwritten Signature]

Name of Officer: ROBERT E. [Handwritten]

Title of Officer: ATTORNEY

Subscribed and sworn to before me on: JAN. 10, 2012

Notary Public Signature: [Handwritten Signature]

My commission expires on: 5/6/2012



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter
1-30-12
 Date

Department of State Use Only

Filed with the Department of State on: 02/08/2012

Effective on: 05/08/2012

Tre Hargett

Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

See the attached letter addressing the agency's response to the public hearing comment.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. Types of small businesses directly affected:

All small professional private investigation firms doing business within the State of Tennessee may be affected by these rules.

2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in small business record-keeping that will result from the promulgation of these rules.

3. Probable effect on small businesses:

These proposed rules may directly affect small businesses when they participate in commerce for which adherence to current licensing standards is required.

4. Less burdensome, intrusive, or costly alternative methods:

The Commission knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules; additionally, the rules impact procedures within a state agency rather than impose new or altered regulation upon private entities.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these rules.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Projected financial impact on local governments:

The Private Investigation and Polygraph Commission licenses only individuals and companies and foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rules of the Tennessee Private Investigation and Polygraph Commission are amended to reflect the following:

Rule 1175-01-.01 Definitions is amended by deleting the general reference to the statute and adding specific descriptions of "physical office location," "principal place of business" and "timely renewal"; this will allow further expansion of the definition list in the future as needed as well.

Rule 1175-01-.03 Fingerprinting is amended to update the fingerprinting submittal process, relieve the Commission of any financial responsibility for processing such fingerprints required for application of license and to update the re-submittal process should an applicant submit "unclassifiable" fingerprints as defined by this rule.

Rule 1175-01-.04 Applicants for License is amended to adding five new paragraphs the coordinate the denial requirements with other regulatory agencies with similar requirements.

For the purpose of assessing the correct initial private investigation company and license fees, rule 1175-04.11 License Fees is amended by adding a new paragraph requiring applying private investigation companies to pay additional fees for private investigator employees added after the initial application but before the private investigation company license is issued as if those additional private investigator employees were listed on the initial application.

For the purpose of assessing the correct renewal private investigation company and license fees, rule 1175-04.12 Renewal Fees is amended by adding a new paragraph requiring renewing private investigation companies to pay additional fees for private investigator employees added after the renewal application but before the renewed private investigation company license is issued as if those additional private investigator employees were listed on the renewal application.

Rule 1175-01-.17 Retired Licenses is amended by rewriting the rule to adding the additional provisions that a retiring private investigator must retire with his or her license in good standing with the Commission, and that if that retiree is intending to return to active status, he or she must complete the continuing professional education requirements for the renewal period for which the retiree wishes to return to active status.

Rule 1175-01-.18 Exceptions to Applicability is amended by adding some new descriptions of occupations for which the licensing requirements do not apply; they are the activities of the National Insurance Crime Bureau, those performing services as a mortgage default inspector, persons employed as "mystery shoppers," and court reporters providing videographer services for depositions.

Rule 1175-01-.19 Evaluation of Required Experience is a new rule added to specifically detail the requirements and procedures for meeting the mandate of Tenn. Code Ann. § 62-26-206(6), which requires that a private investigation company must employ in some way a private investigator with at least 2,000 hours of "compensated, verifiable, investigative experience satisfactory to the commission or has one (1) year of applicable, related experience or education in a related area of study approved by the commission."

Rule 1175-02-.08 Failure to Complete Required Continuing Professional Education is rewritten to establish that if the required continuing education credit is not completed within 30 days of the license expiration date, the renewal application will not be accepted or approved; the rule also removes the disciplinary nature of the rule and instead requires that all late fees assessed during this 30-day period must be paid in full before a renewal license is issued.

Rule 1175-04-.06 Misconduct is rewritten to further define the application of misconduct to matters of misrepresentation and advertising.

Rule 1160-02-.02 Basic Requirements for polygraph examiners is amended to change "annual renewal" to "biennial renewal" and to expand the 12-hour hours of continuing education during that he previous time to 24 credits hours over the two-year renewal period.

Rule 1160-02-.04 Control and Reporting System for polygraph examiners is amended to update the form for submitting such continuing education, to require licensees to retain support for such reports for two years after submission and inform that informs licensees that the Commission is authorized to conduct periodic verifications of this information.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee Private Investigation and Polygraph Commission are made pursuant to Tenn. Code Ann. §§ 62-26-205, 62-26-206, 62-26-208, 62-26-211, 62-26-303 and 62-27-105.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee Private Investigation and Polygraph Commission will affect holders in good standing of registration certificates in private investigation, private investigation companies and polygraph examination and also applicants for registration in these professions. There were oral comments made in connection with this rulemaking hearing, primarily voicing concern as to the requirement that continuing professional education need be available to the public and the nature of such continuing education received from the Tennessee Peace Officer Standards and Training (POST) Commission; the rule that directly addresses the POST Commission was deleted by the Commission as redundant.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have no fiscal impact on the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Robert Henderson, Executive Director of the Tennessee Private Investigation and Polygraph Commission, and I, Robert Henderson, attorney for the agency have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Robert Henderson or I will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who explain the rule at a scheduled meeting of the committees; and

Robert Henderson may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, 500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee 37243, (615) 741-3072.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
(615) 741-3072 FAX: (615) 532-4750**

February 8, 2012

Mr. Fred Standbrook, Legislative Attorney
Government Operations Committee Staff
Office of Legal Services
War Memorial Building
Nashville, Tennessee 37219

***RE: Tennessee Private Investigation and Polygraph Commission
Rule Amendments, Ch. 1175-01, 1175-02, 1175-04, & 1160-02
New Rules, Chapter 1175-01***

Dear Mr. Standbrook:

Pursuant to Tenn. Code Ann. § 4-5-226(i), please find enclosed a copy of the proposed amendments to rules and new rules promulgated by the Tennessee Private Investigation and Polygraph Commission.

1. The rules of the Tennessee Private Investigation and Polygraph Commission are amended to reflect the following:

Rule 1175-01-.03 Fingerprinting is amended to update the fingerprinting submittal process, relieve the Commission of any financial responsibility for processing such fingerprints required for application of license and to update the re-submittal process should an applicant submit "unclassifiable" fingerprints as defined by this rule.

Rule 1175-01-.04 Applicants for License is amended to adding five new paragraphs the coordinate the denial requirements with other regulatory agencies with similar requirements.

For the purpose of assessing the correct initial private investigation company and license fees, rule 1175-04.11 License Fees is amended by adding a new paragraph requiring applying private investigation companies to pay additional fees for private investigator employees added after the initial application but before the private investigation company license is issued as if those additional private investigator employees were listed on the initial application.

For the purpose of assessing the correct renewal private investigation company

and license fees, rule 1175-04.12 Renewal Fees is amended by adding a new paragraph requiring renewing private investigation companies to pay additional fees for private investigator employees added after the renewal application but before the renewed private investigation company license is issued as if those additional private investigator employees were listed on the renewal application.

Rule 1175-01-.17 Retired Licenses is amended by rewriting the rule to adding the additional provisions that a retiring private investigator must retire with his or her license in good standing with the Commission, and that if that retiree is intending to return to active status, he or she must complete the continuing professional education requirements for the renewal period for which the retiree wishes to return to active status.

Rule 1175-01-.18 Exceptions to Applicability is amended by adding some new descriptions of occupations for which the licensing requirements do not apply; they are the activities of the National Insurance Crime Bureau, those performing services as a mortgage default inspector, persons employed as "mystery shoppers," and court reporters providing videographer services for depositions.

Rule 1175-01-.19 Evaluation of Required Experience is a new rule added to specifically detail the requirements and procedures for meeting the mandate of Tenn. Code Ann. § 62-26-206(6), which requires that a private investigation company must employ in some way a private investigator with at least 2,000 hours of "compensated, verifiable, investigative experience satisfactory to the commission or has one (1) year of applicable, related experience or education in a related area of study approved by the commission."

Rule 1175-02-.08 Failure to Complete Required Continuing Professional Education is rewritten to establish that if the required continuing education credit is not completed within 30 days of the license expiration date, the renewal application will not be accepted or approved; the rule also removes the disciplinary nature of the rule and instead requires that all late fees assessed during this 30-day period must be paid in full before a renewal license is issued.

Rule 1175-04-.06 Misconduct is rewritten to further define the application of misconduct to matters of misrepresentation and advertising.

Rule 1160-02-.02 Basic Requirements for polygraph examiners is amended to change "annual renewal" to "biennial renewal" and to expand the 12-hour hours of continuing education during that he previous time to 24 credits hours over the two-year renewal period.

Rule 1160-02-.04 Control and Reporting System for polygraph examiners is amended to update the form for submitting such continuing education, to require licensees to retain support for such reports for two years after submission and inform that informs licensees that the Commission is authorized to conduct periodic verifications of this information.

2. The proposed amendments to the rules of the Tennessee Private Investigation and Polygraph Commission are made pursuant to Tenn. Code Ann. §§ 62-26-205, 62-26-206, 62-26-208, 62-26-211, 62-26-303 and 62-27-105.
3. These amendments to the rules of the Tennessee Private Investigation and Polygraph Commission will affect holders in good standing of registration certificates in private investigation, private investigation companies and polygraph examination and also applicants for registration in these professions. There were oral comments made in connection with this rulemaking hearing, primarily voicing concern as to the requirement that continuing professional education need be available to the public and the nature of such continuing education received from the Tennessee Peace Officer Standards and Training (POST) Commission; the rule that directly addresses the POST Commission was deleted by the Commission as redundant.
4. I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.
5. These rules are expected to have no fiscal impact on the Department.
6. Cody Vest, Executive Director of the Tennessee Private Investigation and Polygraph Commission, and I as attorney for the agency have substantial knowledge and understanding of these rules.
7. Cody Vest or I will explain the rules at any scheduled meeting of the Government Operations Committee.
8. I may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, 500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee 37243, (615) 741-3072.

If you require additional information, please contact me.

Sincerely,

Robert E. Herndon
Attorney for the Commission

Enclosure

cc: Cody Vest, Executive Director
Tennessee Private Investigation and Polygraph Commission

Richard Arnold, Director
Publications Division, Office of Secretary of State



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750**

May 23, 2011

VIA UNITED STATES MAIL

Mr. Edward C. Mason, II, P.I.
Qualifying Agent
Ed Mason & Associates, LLC
4636 Lebanon Road
Hermitage, Tennessee 37076-1316

***RE: Rulemaking Hearing re: Tennessee Private Investigation and
Polygraph Commission, Amendments to Rules, Chapters
1175-01, 1175-02, 1175-04, and 1160-02
New Rules, Chapters 1175-01***

Dear Mr. Mason:

I serve as attorney for the Tennessee State Private Investigation and Polygraph Commission. This letter addresses your oral comments made at the Commission's public rulemaking hearing held on April 15, 2011. The purpose of the rulemaking hearing was to allow the Commission to hear public comments on its intention to revise its administrative rules which address license application and renewal issues and other matters which have not been update in some time. After due consideration of all available information, the Commission has decided to adopt the rules with amendments based on public comment, feeling that the amendments best serve to protect the health, safety and welfare of Tennessee's citizens when the rules becomes effective. Your input was certainly considered as the Commission made its final determination.

Specifically, you made a comment to proposed amended rule 1175—02—.03(4), which discusses acceptable methods of obtaining of continuing education. To prevent any perceived confusion, the Commission has deleted any specific reference to the POST Commission in its rules relative to qualifying programs.

The Commission certainly appreciates your participation in the profession and values your contributions for the revision of these rules.

Sincerely,

A handwritten signature in black ink, appearing to read "R. E. Herndon", written in a cursive style.

Robert E. Herndon
Attorney for the Commission

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

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Sequence Number: _____
 Rule ID(s): REDLINE
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Private Investigation and Polygraph Commission
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person:	Robert Herndon, Attorney for the Commission
Address:	500 James Robertson Parkway, Nashville, Tennessee
Zip:	37243-1167
Phone:	615-741-9461
Email:	Robert.Herndon@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1175-01	Private Investigation and Polygraph Commission
Rule Number	Rule Title
1175-01-.03	Finger Printing
1175-01-.04	Applicants for Licenses
1175-01-.11	License Fees
1175-01-.12	Renewal Fees
1175-01-.17	Retired Licenses
1175-01-.18	Exceptions to Applicability
1175-01-.19	Evaluation of Required Experience
Chapter Number	Chapter Title
1175-02	Continuing Professional Education
Rule Number	Rule Title
1175-02-03	Qualifying Programs
Chapter Number	Chapter Title
1175-04	Rules of Professional Conduct and Standards of Practice
Rule Number	Rule Title
1175-04-.06	Misconduct
Chapter Number	Chapter Title
1160-02	Polygraph Examiner Continuing Education
Rule Number	Rule Title
1160-02-.02	Basic Requirements
1160-02-.03	Qualifying Programs
1160-02-.04	Control and Reporting Systems

Chapter 1175-01
Private Investigation and Polygraph Commission

Amendments

Paragraph (1) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

~~(1) An applicant shall furnish the Commission with three (3) sets of classifiable fingerprints with his or her application for the purpose of allowing the Commission to forward the fingerprints to the Tennessee Bureau of Investigation as required by T.C.A. §§ 62-26-205 and 62-26-208. An applicant shall be deemed to have furnished the Commission with three (3) sets of classifiable fingerprints if he or she causes a private company contracted by the State to electronically transmit the applicant's classifiable prints directly to the Tennessee Bureau of Investigation and to forward a classifiable hard copy of the applicant's fingerprints to the Commission. The Commission shall notify every applicant in writing of the name, address and telephone number of any company approved by the Commission to provide such a service. An applicant shall comply with the following requirements regarding payment for the fingerprinting service:~~

~~(a) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant. In the event an applicant chooses to send classifiable fingerprints directly to the Commission, the Commission shall pay the Tennessee Bureau of Investigation and the Federal Bureau of Investigation processing fees as required by the respective agencies. The Commission shall not be responsible for paying processing fees to the Tennessee Bureau of Investigation and/or the Federal Bureau of Investigation should the applicant choose to cause a private investigation company to electronically transmit his or her fingerprints to the respective law enforcement agencies.~~

~~(b) An applicant shall be responsible for paying fees required by a private investigation company that transmits fingerprints on behalf of the applicant. In the event an applicant chooses to have a private investigation company transmit his or her fingerprints to the Tennessee Bureau of Investigation and the Federal Bureau, the applicant shall be responsible for paying any fees associated with processing such fingerprints to the respective agency. An applicant may make arrangements for the private company to pay processing fees to the Tennessee Bureau of Investigation and/or the Federal Bureau of Investigation on his or her behalf.~~

~~(c) Applicants shall in all cases be responsible for paying application fees as established by the Commission regardless of the manner of fingerprinting the applicant chooses.~~

(1) An applicant shall furnish the commission with three (3) sets of classifiable fingerprints with his or her application for the purpose of allowing the commission to forward the fingerprints to the Tennessee Bureau of Investigation (TBI) and Federal Bureau of Investigation (FBI) as required by T.C.A. §§ 62-26-206 and 62-26-208. An applicant shall be deemed to have furnished the commission with three (3) sets of classifiable fingerprints if he or she causes a private company contracted by the State to electronically transmit the applicant's classifiable prints directly to the TBI and FBI and to forward a classifiable hard copy of the applicant's fingerprints to the commission on standard TBI/FBI applicant cards. The commission shall notify every applicant in writing of the name, address and telephone number of any company contracted by the State to provide such a service. All private investigator and investigations company applicants shall comply with the following requirements regarding payment for the fingerprinting service:

(a) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant;

- (b) If the applicant chooses to request that the commission process the fingerprint cards, then the applicant shall submit with his or her application three (3) sets of classifiable fingerprints on cards provided by the Commission for processing through the TBI and FBI. The applicant shall pay to the Commission all processing fees established by the TBI and FBI.
- (c) If the applicant chooses to use the services of a company that has contracted with the state to provide electronic fingerprinting service, then the applicant shall make the arrangements for the processing of his or her fingerprints with the company directly and shall be responsible for payment of any fees associated with processing of fingerprints to the respective agency.
- (d) In the event the State no longer contracts with any company to provide an electronic fingerprinting service, then the applicant shall submit three (3) classifiable TBI and FBI fingerprint cards with his or her application and shall pay the Commission all processing fees established by the TBI and FBI.
- (e) Applicants shall in all cases be responsible for paying application fees as established by the Commission regardless of the manner of fingerprinting the applicant chooses.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303.

Paragraph (2) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- ~~(2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable in nature to the Commission, or the Tennessee Bureau of Investigation, the Commission may refuse to issue the requested license. For the purposes of this rule, "unclassifiable" means that the electronic scan or the print of the person's fingerprints cannot be read and therefore, cannot be used to identify the person.~~
- (2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable in nature to the commission, or the Tennessee Bureau of Investigation (TBI) or Federal Bureau of Investigation (FBI), the commission may refuse to issue the requested license. For the purposes of this rule, "unclassifiable fingerprints" means that the electronic scan or the print of the person's fingerprints cannot be read, and therefore cannot be used to identify the person. Should an applicant's fingerprints be rejected by the TBI or FBI, the applicant shall pay any fees assessed by the TBI or FBI for resubmission.

Authority: T.C.A. §§62-26-205, 62-26-208, and 62-26-303.

Rule 1175-01-.04 Applicants for Licenses is amended by adding new subparagraphs (5), (6), (7), (8) and (9) that shall read:

- (5) An applicant denied for material misstatement is not eligible to reapply for licensure for a period of six (6) months from the date of denial. Appeals must be submitted to the commission in writing within thirty (30) days from the denial. All documentary dispositions and required court documents must be provided prior to a scheduled appeal hearing before the commission.
- (6) Disposition of the following crimes or actions taken by an authority having jurisdiction may disqualify an applicant, subject to the discretion of the commission:
 - (a) Conviction by any local, state, federal, or military court of any crime involving the illegal sale, manufacture, distribution, or transportation of a controlled substance, drug, or narcotic;
 - (b) Conviction of any felony;

- (c) Conviction of a crime involving unlawful breaking and entering, burglary, larceny, or arson;
 - (d) Conviction as a habitual criminal;
 - (e) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C.A. § 921(33);
 - (f) Any misdemeanor conviction involving:
 - 1. Shooting a firearm or other weapon;
 - 2. Shoplifting; or
 - 3. Assault and battery or other act of violence against persons or property.
- (7) An applicant may be disqualified for licensure for habitual drunkenness; narcotics addiction or dependence; and/or unlawful use of or addiction to any controlled substance, as defined in section 102 of the Controlled Substances Act, 21 U.S.C.A. § 902(6). This prohibition includes any person who is a current user of a controlled substance. The commission may draw an inference of current use from recent use or possession of a controlled substance, e.g., positive drug test upon arrest or during probation within the past year; a conviction for use or possession of a controlled substance within the past year; or multiple arrests for such offenses within the past five (5) years if the most recent arrest occurred within the past year.
- (8) An applicant may be disqualified for licensure for having been discharged from the armed forces under conditions less than honorable.
- (9) An applicant may be disqualified for licensure for being subjected to a court order restraining the applicant from committing an act of domestic violence. The order must have been issued after a hearing during which the person restrained received actual notice of the hearing and had an opportunity to participate in any proceedings. The restrained individual need have only an opportunity to participate in any proceedings; consequently, failure to appear at the proceeding or consent to the entry of the order without a hearing does not affect this prohibition. Consent orders and orders entered by a court of competent jurisdiction upon the applicant's failure to appear qualify under this prohibition.

Authority: T.C.A. §§ 62-26-205, 62-26-206, 62-26-208, 62-26-217, and 62-26-303.

Rule 1175-01-.11 License Fees is amended by adding a new subparagraph (4) that shall read:

- (4) For the purposes of assessing the correct investigations company application and license fees, the employees referenced in T.C.A. § 62-26-208(a) and (b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated with the investigations company. Investigations company license applicants whose licenses have not yet been issued and who prior to such issuance add any number of investigators above that number listed when application was made shall, prior to issuance, pay all application and license fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the initial application. An individual who applies for an investigations company license but is not a licensed private investigator and who at the time of issuance of that license has not yet employed a licensed private investigator shall be considered a sole practitioner for the purpose of issuing the license.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303.

Rule 1175-01-.12 Renewal Fees is amended by adding new subparagraphs (3) and (4) that shall read:

- (3) For the purposes of assessing the correct investigations company renewal fees, the employees referenced in T.C.A. § 62-26-211(b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated

with the investigations company. Investigations company license renewal applicants whose licenses have not yet been renewed and who prior to such renewal add any number of investigators above that number listed when renewal application was made shall, prior to renewal, pay all renewal fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the renewal application. Upon the employment of licensed private investigators, an individual holding an investigations company license as a sole proprietor pursuant to paragraph (4) of rule 1175-01-.11 shall not be counted in the total number of private investigators employed by that investigations company for the purpose of assessing the correct investigations company renewal fee.

- (4) All late fees must be paid within the thirty (30) days prescribed by T.C.A. § 62-26-211(c).

Authority: T.C.A. §§62-26-205, 62-26-208, 62-26-211, and 62-26-303.

Rule 1175-01-.17 Retired Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 1175-01-.17 shall read:

~~A private investigator who has retired his/her license shall remain subject to the disciplinary provisions contained in T.C.A. § 62-26-217 and shall be obliged to comply with the notice provisions contained in T.C.A. § 62-26-213.~~

- (1) A private investigator who has retired his or her license shall remain subject to the disciplinary provisions contained in T.C.A. § 62-26-217 and shall be obliged to comply with the notice provisions contained in T.C.A. § 62-26-213.
- (2) For the purpose of retirement of a private investigator license, the licensee must be in good standing with the commission and in compliance with all applicable law and rules.
- (3) Prior to returning the license to an active status, the licensee must have an affiliation with a licensed investigations company and will be required to complete the continuing professional education requirements for the renewal period from which the license is returned to active status.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-211, 62-26-225, and 62-26-303.

Rule 1175-01-.18 Exceptions to Applicability is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 1175-01-.18 shall read:

~~For purposes of T.C.A. § 62-26-223(b)(3)(A), the term "employee" shall be defined as an individual to whom wages are paid by the attorney or law firm and from whose wages Federal Income Tax and/or Federal Insurance Contributions Act monies are withheld by the attorney or law firm.~~

- (1) For purposes of T.C.A. § 62-26-223(b)(3)(A), the term "employee" shall be defined as an individual to whom wages are paid by the attorney or law firm and from whose wages Federal Income Tax and/or Federal Insurance Contributions Act monies are withheld by the attorney or law firm.
- (2) The activities performed by the National Insurance Crime Bureau, a non-profit organization, are not required to be performed by a licensed private investigator.
- (3) Persons performing the duties of a mortgage default inspector are not required to obtain a private investigator license provided that these persons only interview the homeowner/mortgagor to determine the reason for delinquency in payments. Additionally, if the property is vacant or appears to be so, the company representative performing these duties may talk to neighbors to verify occupancy status of the subject property and, after completion of duties, may file a report with the mortgage company detailing the findings.
- (4) Persons who perform the services of a "mystery shopper" or who are employed as a "mystery shopper" are not required to be licensed as a private investigator, as long as the "mystery shopper" is not performing private investigation services as defined in T.C.A. § 62-26-202(6) and (10). A mystery shopper is someone who is employed by a retail organization to assess the functioning of the retail organization, including but not limited to customer service and product quality.

- (5) Court reporters and persons who perform videographer services for depositions are not required to obtain a private investigator license.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-223, and 62-26-303.

Chapter 1175-01
Private Investigation and Polygraph Commission

New Rules

Table of Contents

1175-01-.19 Evaluation of Required Experience

1175-01-.19 Evaluation of Required Experience.

- (1) An applicant for an investigations company license may meet the experience requirement of T.C.A. § 62-26-206 by submitting a detailed résumé, a sworn statement that the applicant has the minimum amount of experience for the appropriate designation, and verification of two thousand (2,000) hours of compensated investigative experience. Acceptable proof of experience includes documentation from previous employers, submitted on each previous employer's or agency letterhead, stating the number of hours for which the applicant was compensated and a detailed job description showing actual work experience as a private investigator. The commission may consider other proof in its discretion.
- (2) An applicant for an investigations company license may meet the education requirement of T.C.A. § 62-26-206 by submitting to the commission transcripts from an accredited college or university showing the course of study along with the number of hours completed and evidence of any degree earned. The commission has the discretion to review any submitted degree programs and fields of study for acceptability.
- (3) Military service may be acceptable experience to meet these qualifications if the applicant documents two thousand (2,000) hours of verifiable, compensated experience while serving in an investigative capacity with any federal, U.S. armed forces, state, county or municipal law enforcement agency or any other governmental agency.
- (4) Out-of-state applicants who own or operate their own investigations company, and who are not required to hold a license or registration in their state of residence, must provide the following documentation:
 - (a) A city, county or state business license showing the issuance and expiration date;
 - (b) A federal tax identification;
 - (c) Federal tax returns; and/or
 - (d) Corporate charter information documenting which state the applicant corporation was originally chartered in and the date on which the applicant corporation was chartered.
 - (e) The commission may consider documentation other than the above as acceptable in its discretion.
- (5) A "letter of good standing" is required from each jurisdiction for which the applicant holds a license or registration. The "letter of good standing" must detail how the applicant qualified for the license or registration, the date on which the license or registration was issued and the current license or registration status. A statement regarding any disciplinary action taken against the license or registration in any applicable jurisdiction is also required.

Authority: T.C.A. §§ 62-26-206 and 62-26-303.

Chapter 1175-02
Continuing Professional Education

Amendments

Rule 1175-02-.08 Failure to Complete Required Continuing Professional Education is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, rule 1175-02-.08 shall read:

~~Licenses who fail to complete the required number of continuing professional education hours each calendar year, shall be denied renewal of their license and may face additional disciplinary action in keeping with these rules and the Private Investigators Licensing and Regulatory Act.~~

If the required continuing professional education is not completed on or prior to the expiration date of the license, a late fee will be assessed. If the required continuing education is not completed within thirty (30) days of the license expiration date, the renewal application will not be accepted or approved. If a late fee is assessed, no license will be approved until such late fee is paid in full.

Authority: T.C.A. §§62-26-205, 62-26-208, 62-26-211, 62-26-217, 61-26-225, and 62-26-303.

Chapter 1175-04 Rules of Professional Conduct and Standards of Practice

Amendments

Paragraph (5) of rule 1175-04-.06 Misconduct is amended by deleting the text of the paragraph in its entirety and substituting instead the following so that, as amended, paragraph (5) of rule 1175-04-.06 shall read:

~~(5) The licensee shall not falsify or permit misrepresentation of his/her or his/her associates' academic or professional qualifications. He/she shall not misrepresent or exaggerate his/her degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications and his/her work.~~

(5) Misrepresentation of qualifications and identity.

(a) The licensee shall not falsify or permit misrepresentation of his or her or his or her associates' academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures, or his or her past accomplishments with the intent and purpose of enhancing his or her qualifications.

(b) Production and/or use of any printed matter or promotional materials, including but not limited to radio, television, internet or print advertising, letterhead, business cards or flyers which do not bear the true name(s) under which the licensee is licensed by the commission as a private investigator or an investigations company shall constitute misrepresentation. The true name of the licensee private investigator or investigations company shall accompany any D/B/As, A/K/As and alias names under which the licensee operates.

(c) Failure by a private investigator to indicate the private investigation company to whom the private investigator is affiliated on any printed matter or promotional materials, including but not limited to radio, television, internet or print advertising, letterhead, business cards or flyers shall constitute misrepresentation.

Authority: T.C.A. §§ 62-26-217 and 62-26-303.

Polygraph Examiners
Chapter 1160-02
Continuing Education

Amendments

Rule 1160-02-.02 Basic Requirements is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, rule 1160-02-.02 shall read:

Rule 1160-02-.02 Basic Requirements

- (1) ~~Every licensed polygraph examiner seeking annual renewal of a license, for 1990 and thereafter, shall as a prerequisite for renewal of such license, report with the license renewal form satisfactory evidence of having completed at least twelve (12) credit hours of qualified continuing education in the subject areas of polygraph examinations, and/or related fields.~~
- (2) ~~Notwithstanding paragraph (1) of this rule, no polygraph examiner shall be required to complete any credit hours or continuing education during the calendar year in which he or she first becomes licensed.~~

Every licensed polygraph examiner seeking biennial renewal of a license shall, as a prerequisite for renewal of such license, provide satisfactory evidence of having completed at least twenty-four (24) credit hours of qualified continuing education in the subject area of polygraph examinations and/or related fields.

Authority: T.C.A. §§ 62-27-105 and 62-27-129.

Rule 1160-02-.04 Control and Reporting System is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, rule 1160-02-.04 shall read:

Rule 1160-02-.04 Control and Reporting System

- (1) ~~Each licensee shall submit on the following form a signed statement setting forth the continuing education programs in which he has participated during the renewal period:~~

VERIFICATION OF CONTINUING EDUCATION

I, _____, do attest that on _____ I attended _____
hours of seminar at _____.

Enclosed is a copy of my certificate and the agenda of the seminar.

I certify that the above information is true and correct.

SIGNATURE OF EXAMINER _____ DATE

Such licensee shall retain documentation supporting such statement for at least two (2) years subsequent to the date of submission.

- (2) ~~If any continuing education credit hours claimed in a statement submitted by a licensee pursuant to paragraph (1) of this rule are disapproved, the Tennessee Private Investigation and Polygraph Commission shall notify such licensee of the reason for the disapproval. The Tennessee Private Investigation and Polygraph Commission may allow a specified period for correction of the deficiencies noted.~~

- (3) ~~The Tennessee Private Investigation and Polygraph Commission will verify information submitted by licensees under this rule on a test basis.~~

- (1) Each licensee shall submit the following form as a prerequisite for renewal, which must include a signed statement setting forth the continuing education programs in which the licensee has

participated during the renewal period:

VERIFICATION OF CONTINUING EDUCATION

I, _____, attest that on the following dates I attended a total of _____ hours of continuing professional education.

Date: _____ Seminar Sponsor: _____

Hours Completed: _____ Location: _____

Date: _____ Seminar Sponsor: _____

Hours Completed: _____ Location: _____

Date: _____ Seminar Sponsor: _____

Hours Completed: _____ Location: _____

Enclosed are copies of my certificates and the seminar agendas for each session attended.
I certify that the above information is true and correct.

SIGNATURE OF POLYGRAPH EXAMINER

DATE

- (2) Such licensee shall retain documentation supporting such statement for at least two (2) years subsequent to the date of submission.
- (3) If any continuing education credit hours claimed in a statement submitted by a licensee pursuant to paragraph (1) of this rule are disapproved, the Tennessee Private Investigation and Polygraph Commission shall notify such licensee of the reason for the disapproval. The Tennessee Private Investigation and Polygraph Commission may allow thirty (30) days for correction of the deficiencies noted.
- (4) The Tennessee Private Investigation and Polygraph Commission will verify information submitted by licensees under this rule on a periodic basis.

Authority: T.C.A. §§ 62-27-105 and 62-27-109.