

## ARTICLE 10-11

### DETECTION OF DECEPTION EXAMINERS

#### Chapter

##### 10-11-01 Definitions

##### 10-11-02 Application for License Process and Procedure for Issuance

##### 10-11-03 Detection of Deception Examinations

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## CHAPTER 10-11-01

### DEFINITIONS

#### Section

##### 10-11-01-01 Definitions

#### 10-11-01-01. Definitions.

As used in this article:

1. ~~"Board" means six five licensed detection of deception examiners appointed by the attorney general to serve as an advisory board, including an appointed chairman of the board.~~

2. "Detection of deception examination" means the use of a polygraph on an individual for the purpose of deception detection.

3. "Intern" means a person being trained in the use of a polygraph and the interpretation of the results obtained for the purpose of deception detection under the personal supervision and control of a licensed examiner.

4. ~~"License examination" means examination by the board of applicants for licensure as a detection deception examiner.~~

5. "Polygraph" means an instrument or device which simultaneously combines continuous permanent recording with a means of recording the examinee's cardiovascular patterns, respiratory patterns, and galvanic skin electrodermal response.

**History:** Effective July 1, 1984.

**General Authority:** NDCC 43-31-13

**Law Implemented:** NDCC 43-31-13

## CHAPTER 10-11-02

### APPLICATION FOR LICENSE PROCESS AND PROCEDURE FOR ISSUANCE

#### Section

##### 10-11-02-01 Application

##### 10-11-02-02 Application Fee

##### ~~10-11-02-03 Qualifications for License~~

##### 10-11-02-04 Reciprocity

##### ~~10-11-02-05 License Examinations~~

#### 10-11-02-01. Application.

1. Upon receipt of a request for application, the attorney general's licensing division will prepare and furnish the applicants with a copy of North Dakota Century Code chapter 43-31 and ~~will send a copy of the procedures and rules for licensing, pursuant to North Dakota Century Code sections 14-31-07 and 14-31-07.1~~

2. When an application for detection of deception examiners license is received by the attorney general's licensing division, all requested information has been furnished, and the examination fee has been received, the application will be forwarded to a representative from the North Dakota Bureau of Criminal Investigation. ~~the chairman of the board~~

3. After a background investigation has been conducted by the representative ~~board~~, the representative ~~chairman~~ will return the application to the licensing division with advice to the attorney general regarding the action to be taken on the application, i.e., issuance on reciprocity, ~~setting an examination date,~~ approval, or denial.

4. Upon receipt of the application, the ~~attorney general's~~ licensing division will notify the attorney general of the representative's findings, and the attorney general will take final action on the application, i.e., issuance on reciprocity, approval, or denial. Then, the licensing division will notify the applicant in regard to the appropriate action taken by the attorney general. ~~If testing is required, the date, time, and place will be scheduled in consultation with the board chairman.~~

**History:** Effective July 1, 1984.

**General Authority:** NDCC 43-31-13

**Law Implemented:** NDCC 43-31-04

#### **10-11-02-02. Application fee.**

Applicants shall pay a fifty thirty five dollar application fee ~~for examination~~. The fee is nonrefundable.

**History:** Effective July 1, 1984.

**General Authority:** NDCC 43-31-13

**Law Implemented:** NDCC 43-31-14

#### **10-11-02-03. Qualifications for license.**

1. ~~The applicant must not have been convicted within five years prior to the application for the license of any violation of any law of the United States or this state or of any local ordinance which law or ordinance relates to:~~

a. ~~Felony offenses.~~

b. ~~Offenses involving moral turpitude.~~

2. ~~Applicant must have successfully completed a polygraph examiners course from a school that is accredited by the American Polygraph Association.~~

**History:** Effective July 1, 1984.

**General Authority:** NDCC 43-31-13

**Law Implemented:** NDCC 43-31-07

#### **10-11-02-04. Reciprocity.**

Applicants who are licensed examiners under the laws of another state of the United States may be issued a license ~~without examination~~ by the attorney general if:

1. The requirements pursuant to North Dakota Century Code section 43-31-07 are met.

2. The applicant provides the attorney general a copy of such license, which must be active and in good standing.

3. The applicant provides the attorney general a copy of that state's licensing requirements at the time that said applicant was licensed.

4. The attorney general determines the laws of the other state, at the time of the applicant's original licensure, are substantially equivalent to North Dakota Century Code Chapter 43-31 and this chapter.

5. The applicant has paid the required application fee(s).

6. The required background check is successfully completed.

The representative shall report its recommendation to either approve or deny the request for reciprocity to the attorney general.

~~That law will then be compared to the North Dakota law which sets forth the licensing requirements by the board with the board reporting to the attorney general.~~

**History:** Effective July 1, 1984.

General Authority: NDCC 43-31-13  
Law Implemented: NDCC 43-31-16

**~~10-11-02-05. License examinations.~~**

- ~~1. Any person who is not exempted from a license examination under North Dakota Century Code sections 43-31-15 and 43-31-26 will be required to take a state license examination administered by the board.~~
- ~~2. License examinations will be conducted in May and October of each calendar year.~~
- ~~3. This examination will be administered by not less than three members of the board.~~
- ~~4. The examination will include written, oral, and demonstration skills in the polygraph field as follows:~~

~~a. Phase I: Written examination, four parts.~~

- ~~(1) Physiological.~~
- ~~(2) Psychological.~~
- ~~(3) Mechanical.~~
- ~~(4) Technical.~~

~~A minimum score of seventy percent will be needed on each part for a license. Failure of any part will require retesting of that part upon reapplication after six months.~~

~~b. Phase II: Instrumentation, five parts.~~

- ~~(1) Familiarity with instrument.~~
- ~~(2) Familiarity with components.~~
- ~~(3) Familiarity with mechanical operation.~~
- ~~(4) Familiarity with attachments.~~
- ~~(5) Familiarity in attaching instrument to the subject and activation.~~

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~~This phase will be graded on a scale of one to five. A three is acceptable, below three is an unacceptable score and may limit licensure.~~

~~c. Phase III: Question formulation, five parts.~~

- ~~(1) Applicability.~~
- ~~(2) Wording.~~
- ~~(3) Sequence.~~
- ~~(4) Placement of controls.~~
- ~~(5) Placement of irrelevant questions.~~

~~This phase will be graded on a scale of one to five. A three is acceptable, below three is an unacceptable score and may limit licensure.~~

~~d. Phase IV: Chart interpretation (must supply twenty-five recent and complete examination charts for analysis and questions, reports must also be furnished), five parts.~~

- ~~(1) Knowledge of interviewing.~~
- ~~(2) Observations of subject.~~
- ~~(3) Knowledge of reactions on charts.~~
- ~~(4) Interpretation of chart events.~~
- ~~(5) Knowledge of chart marking.~~

~~This phase will be graded on a scale of one to five. A three is acceptable, below three is an unacceptable score and may limit licensure.~~

~~e. Phase V: Oral interview, five parts.~~

- ~~(1) Applicant's history and schooling.~~
- ~~(2) Applicant's work and professional experience.~~
- ~~(3) Applicant's interviewing techniques.~~
- ~~(4) Applicant's polygraph theory.~~
- ~~(5) Applicant's personal feelings regarding detection of deception.~~

~~This phase is the final part of examination. It will be graded on a scale of one to three.~~

~~The total examination process will then be reviewed. A score of three is required for licensure. A score of two is required for the person to receive a qualified licensure which would require supplemental information or action. A score of two will be assigned to interns until twenty five charts are reviewed by a board member. A score of one renders the applicant unacceptable for licensure. A score of one will be explained in writing by the board.~~

~~5. In grading the examination, a scoring sheet will be filled out and signed by each examining board member. The score will be averaged for a final score.~~

~~6. Grading of the written examination will be based on one hundred percent score. Each true and~~

~~false question has a three percent value. Each multiple choice question has a four percent~~  
~~3~~

~~value. Each completion and essay question has a six percent value. There are ten true and false questions, ten multiple choice questions, and five completion/essay questions per part of the written examination. Partial credit will be given for multiple choice answers that are partially correct.~~

~~History: Effective July 1, 1984.~~

~~General Authority: NDCC 43-31-13~~

~~Law Implemented: NDCC 43-31-07~~

## **CHAPTER 10-11-03**

### **DETECTION OF DECEPTION EXAMINATIONS**

#### **Section**

10-11-03-01 Detection of Deception Examination Procedures

10-11-03-02 Detection of Deception Examination Records

#### **10-11-03-01. Detection of deception examination procedures.**

1. No person may be present during the detection of deception examination without the express consent of the examiner.

2. An examiner shall terminate a detection of deception examination in progress immediately upon request of the examinee.

~~3. A polygraph test may not continue for more than four minutes if a high pressure cuff is being utilized on the arm, no more than five minutes if a high pressure cuff is being utilized on the wrist.~~

3. -4 No detection of deception examination may be conducted prior to a complete understanding between the examiner, the requesting agency, and examinee as to the specific reason for the test, including all records, documents, and investigative reports necessary to conduct the examination.

4. -5 An examiner when administering a detection of deception examination, may not attempt to determine truth or deception on manners or issues not previously discussed with the examinee at the preexamination interview or not reasonably related to the matters or issues previously discussed with the examinee.

5 -6 The detection of deception examination of a subject and that subject's fitness for the examination is at the discretion of the examiner.

~~History: Effective July 1, 1984.~~

~~General Authority: NDCC 43-31-13~~

~~Law Implemented: NDCC 43-31-13~~

#### **10-11-03-02. Detection of deception examination records.**

An examiner shall create and maintain a record of every detection of deception examination administered. Records must be maintained for five years and must contain the following:

1. All polygraph charts (polygrams) on each examinee.

2. All written reports or memoranda of verbal reports.
3. A list of all questions asked while the polygraph is recording.
4. Background information elicited during the pretest interviews.
5. A form signed by the examinee indicating that the examinee has voluntarily agreed to take the polygraph test and that the examinee has the right to leave the examining room at any time during the examination.
6. All tape recordings of the detection of deception examination if made.
7. An index either chronological or alphabetical listing the names of all persons examined, the type of detection of deception examination, the date of the examination, the name of the examiner, and the file or record number in which the records are maintained.

**History:** Effective July 1, 1984.

**General Authority:** NDCC 43-31-13

**Law Implemented:** NDCC 43-31-13

## **CHAPTER 10-11-04**

### **INTERNSHIP LICENSE AND PROCEDURES**

#### Section

#### 10-11-04-01 Internship License

##### **10-11-04-01. Internship license.**

1. Every person who applies for an internship license shall, at the time of application, provide the attorney general with the name, address, qualifications, and state license number of the examiner who will be acting as the supervising examiner. The applicant must also pay the required application fee.
2. In the event an applicant does not have access to an immediate supervisor, the attorney general may appoint a supervising examiner to supervise the trainee.
3. The attorney general shall approve the applicant's choice of supervising examiner.
4. The minimum requirements to be fulfilled by a supervising examiner are as follows:
  - a. Inspection of ~~twenty-five~~ ten examination records selected by the supervising examiner; and
  - b. The ~~direct~~ observation by the supervising examiner of at least one complete examination including preparation, pretest interview, testing, post-test interrogation, where applicable, and report writing which is deemed satisfactory by the supervising examiner.
  - c. At the completion of the internship, the supervising examiner will advise the representative whether the applicant has successfully completed the internship. The representative will then notify the attorney general regarding the supervising examiner's recommended action to be taken on the application for license, i.e., issuance on reciprocity, approval or denial.
5. Upon approval by the attorney general, an internship license must be issued to a trainee provided the trainee applies for such license and pays the required fee within ten days prior to the commencement of the internship. The application must contain such information as may be required by the attorney general.
6. An internship license is valid for the term of twelve months from the date of issue. Such license may be extended or renewed for any term not to exceed six months upon good cause shown to the attorney general.
7. A trainee is not entitled to hold an internship license after the expiration of the original twelve-month period and six-month extension, if such extension is granted by the attorney general until twelve months after the date of expiration of the last internship license held by said trainee.

##### **10-11-04-02. Reciprocity.**

Applicants who are licensed examiners under the laws of another state of the United States may be issued a license by the attorney general if:

1. The requirements pursuant to North Dakota Century Code section 43-31-07 are met.

- ~~2. The applicant provides to the attorney general a copy of such license.~~
- ~~3. The applicant provides to the attorney general a copy of that state's licensing requirements at the time that said applicant was licensed.~~
- ~~4. The attorney general determines the laws of the other state to be substantially equivalent to North Dakota Century Code Chapter 43-31 and this chapter.~~
- ~~5. The other state grants similar reciprocity to the license holders of this state.~~
- ~~6. The applicant has paid the required application fee(s).~~
- ~~7. The required background check to verify the applicant is qualified under North Dakota Century Code section 43-31-07 will be completed and the board shall report its recommendation to either approve or deny the request for reciprocity to the attorney general.~~

**History:** Effective July 1, 1984.

**General Authority:** NDCC 43-31-13

**Law Implemented:** NDCC 43-31-07.1

## **CHAPTER 10-11-05 PROFESSIONAL CONDUCT**

### Section

#### 10-11-05-01 Advertising

##### **10-11-05-01. Advertising.**

1. An examiner may not advertise the examiner's services so as to deceive, or in any manner which tends to deceive, the public.
2. An examiner may not publish, directly or indirectly, or disseminate any fraudulent, false, or misleading statements as to the skill or method of practice of any other examiner.
3. An examiner may not claim superiority over other deception detection examiners as to skill or method of practice.
4. An examiner may not advertise free deception detection examinations as an inducement to secure patronage.

**History:** Effective July 1, 1984.

**General Authority:** NDCC 43-31-13

**Law Implemented:** NDCC 43-31-10, 43-31-13