

Report on the

Polygraph Examiners Board

Montgomery, Alabama



Department of Examiners of Public Accounts

401 Adams Avenue, Suite 280

P.O. Box 302251

Montgomery, Alabama 36130-2251

Website: www.examiners.alabama.gov

Rachel Laurie Riddle, Chief Examiner



Rachel Laurie Riddle
Chief Examiner

State of Alabama
Department of
Examiners of Public Accounts

P.O. Box 302251, Montgomery, AL 36130-2251
401 Adams Avenue, Suite 280
Montgomery, Alabama 36104-4325
Telephone (334) 242-9200
FAX (334) 242-1775

July 22, 2020

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama Polygraph Examiners Board in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Alabama Polygraph Examiners Board, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in cursive script that reads 'Rachel Laurie Riddle'.

Rachel Laurie Riddle
Chief Examiner

Examiner
Janet L. Berry

CONTENTS

PROFILE	1
Purpose/Authority	1
Characteristics	1
Operations	3
Financial	3
Licensee Information	4
SIGNIFICANT ISSUES.....	6
STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES	6
APPENDIX	8
Board Members	8

PROFILE

Purpose/Authority

The Polygraph Examiners Board was created by Act No. 2056, Acts of Alabama 1971 setting forth qualifications and standards for polygraph examiners and minimum instrumentation requirements for polygraph examinations. The Board issues licenses to qualified applicants and enforces statutes, rules, and regulations governing polygraph examiners. The Board operates under the authority of the *Code of Alabama 1975*, Section 34-25-1 through 34-25-36.

The following legislation was passed since the last Sunset Review of the Board:

Act No. 408, Acts of Alabama 2019 amended Section 34-25-26 to increase the application, original license and license renewal fees for polygraph examiners.

<u>Characteristics</u>	
Members and Selection	Appointed by the Governor and confirmed by the Senate <ul style="list-style-type: none">• Five polygraph examiners• Two advisory consultants 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. <i>Code of Alabama 1975</i> , Section 34-25-4(a)
Term	Four year staggered terms No term limits <i>Code of Alabama 1975</i> , Section 34-25-4(a)
Qualifications	Polygraph Examiners <ul style="list-style-type: none">• Citizen of the United States• Resident of the State for at least two years prior to appointment• Engaged for a period of four consecutive years in their profession as polygraph examiners prior to appointment• Engaged at the time of appointment as an active polygraph examiner• No board members may be employed by the same person or agency• Three governmental polygraph examiners• Two commercial polygraph examiners

	<p><i>Code of Alabama 1975</i>, Section 34-24-4(a)</p> <p>The Board has the authority to establish the qualifications for the advisory consultants by Administrative Rule.</p> <p>Advisory Consultants</p> <ul style="list-style-type: none"> • Attorney licensed to practice law in Alabama • A qualified psychologist or psychiatrist. <p><i>Administrative Rule</i> 740-X-2-.02</p>
Consumer Representation	No statutory requirement
Racial Representation	No statutory requirement Two black members serving
Geographical Representation	No statutory requirement
Other Representation	<p>The Governor shall select those persons who appointments, to the extent possible, ensure that the membership of the board is inclusive and reflects the racial, gender, urban/rural, and economic diversity of the state.</p> <p><i>Code of Alabama 1975</i>, Section 34-24-4(a)</p>
Compensation	<p>Board members and advisory consultants are compensated \$100 per day for attendance at regular or special board meetings, only for actual days of meetings.</p> <p>The Board may approve the payment for a board member when authorized by the Board to perform certain other duties of the Board when not in formal, regular, or special session.</p> <p>Travel and per diem as provided for state employees.</p> <p><i>Code of Alabama 1975</i>, Section 34-24-5(d)(e)</p>
Attended Board Member Training	Four Board members

<u>Operations</u>	
Administrator	Joan Beck, Administrative Secretary Annual salary - \$5,852.33 <i>Code of Alabama 1975</i> , Section 34-25-4(b)
Location	301 South Ripley Street Montgomery, AL 36104 Office Hours: Tuesday 9:00 am to 5:00 pm
Employees	One part-time, hourly, retired, state employee <i>Code of Alabama 1975</i> , Section 34-25-4(b)
Legal Counsel	Brian J. Williams, legal advisory consultant member, also provides legal services for the Board
Subpoena Power	Yes – both persons and records <i>Code of Alabama 1975</i> , Section 34-25-34(b)
Internet Presence	www.polygraph.alabama.gov <ul style="list-style-type: none"> • Home • Law* • Rules and Regulations • Consumer Information • Equipment • Board Members • License Annual Renewal Form • Schools Recognized by the APEB • Upcoming Events <p>*Outdated. See Prior Significant Issue 2018-01</p>
<u>Financial</u>	
Source of Funds	Licensing fees, fines, and penalties
State Treasury	Yes, Special Revenue Fund 0410 <i>Code of Alabama 1975</i> , Section 34-25-5(c)
Required Distributions	None

Unused Funds	Board retains unused funds at fiscal year-end. <i>Code of Alabama 1975</i> , Section 34-25-5(c)
<u>Licensee Information</u>	
Licensees	104 as of March 11, 2020 <i>Source:</i> Administrative Secretary
Qualifications	<ul style="list-style-type: none"> • 21 years of age or older • Citizen of the United States or legally present in the United States • Baccalaureate degree from a regionally accredited college or university, and/or recognized by the board, or in lieu thereof, has five consecutive years of active investigative experience immediately preceding his or her application • Graduate of a polygraph examiners' course approved by the board • Six months of internship training • Passed examination conducted by the board or under its supervision <i>Code of Alabama 1975</i> , Section 34-25-21
Examinations	<p>Exams are administered and graded by the Board. Exams are given twice a year, more if necessary, at the State Troopers Association Building in Montgomery. One applicant took the exam in 2019 and passed.</p> <p>According to the Polygraph Examiners website and the American Polygraph Association website, there are no approved or APA Accredited schools for Polygraph Examiners in Alabama.</p> <i>Source:</i> Administrative Secretary

Reciprocity	<p>An applicant who is a polygraph examiner licensed under the laws of another state or territory of the United States may be issued a license without examination by the board, in its discretion, upon payment of the appropriate fees as provided in Section 34-25-26 and the production of satisfactory proof that:</p> <ul style="list-style-type: none"> • At least 21 years of age; • Citizen of the United States; • Good moral character; • The requirements for the licensing of polygraph examiners in such particular state or territory of the United States were at the date of the applicant's licensing therein substantially equivalent to the requirements now in force in this state; • The applicant has lawfully engaged in the administration of polygraph examinations under the laws of such state or territory for at least two years prior to the application for license hereunder; • Such other state or territory grants similar reciprocity to license holders of this state; and • Has complied with Section 34-25-23. <p>The Board has reciprocal agreements with Tennessee, Mississippi, Arkansas, Louisiana, South Carolina, and Virginia.</p> <p><i>Code of Alabama 1975</i>, Section 34-25-24 <i>Source:</i> Administrative Secretary</p>
Renewals	<p>Annually, prior to October 1 Two month grace period \$50 late fee if renewed December 1 through June 1 Online renewal is not available</p> <p><i>Code of Alabama 1975</i>, Section 34-25-29(a) <i>Administrative Rule</i> 740-X-3-.07(3)</p>
Licensee Demographics	<p>Data not collected by the Board.</p>
Continuing Education	<p>12 hours annually</p> <p><i>Code of Alabama 1975</i>, Section 34-25-29(b) <i>Administrative Rule</i> 740-X-3-.16</p>

SIGNIFICANT ISSUES

No new significant issues.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

Prior Significant Issue 2018-01 -The Board has not updated its website to reflect current information.

- The Polygraph Examiners Law on the website does not reflect the changes made by Act. No. 189, Acts of Alabama 2016 requiring applicants to provide fingerprints for background checks.
- The websites upcoming events tab lists Polygraph Examiner seminars that took place in 2015 and 2016. There are no seminars listed for 2017 or 2018.
- A board member appointed in March 2016 has not been added to the Board member listing on the website.

Current Status – Unresolved

- The Polygraph Examiners Law on the website does not reflect the changes made by Act. No. 189, Acts of Alabama 2016 requiring applicants to provide fingerprints for background checks and defining the qualifications for the advisory members.
- There are no seminars listed for 2020.

Prior Finding 2011-01 – The Board by administrative rule made optional a requirement for licensure that is mandatory by law. The Board’s Administrative Rule 740-X-4-.01 (a) states, “The internship license program will be open to those applicants for a polygraph examiner license whom the Board determines requires additional training in polygraph before they will be able to demonstrate sufficient competency to be issued a regular polygraph examiner’s license.

The *Code of Alabama 1975*, Section 34-25-21 (a) states, “A person is qualified to receive a license as an examiner: ... (6) Who is a graduate of a polygraph examiners’ course approved by the Board and has satisfactorily completed not less than six months of internship training.”

Current Status– Resolved. The Board amended administrative rule 740-X-4-.01(a) to state, “The internship license program will be opened to those applicants for a polygraph examiner’s license who have not served a six (6) month internship. During the internship period the applicant will receive additional training in polygraphy before they will be able to demonstrate sufficient competency to be issued a regular polygraph examiner’s license.”

Prior Significant Issue 2011-02 - The Board’s complaint procedures may not be legally defensible. According to the Board’s administrative secretary, all board members participate in the investigations of complaints and also in administrative hearings against licensed polygraph examiners. The policy of having the same board

members participate both in investigations of complaints and in the resulting disciplinary hearing process could result in successful allegations of bias. According to the administrative secretary, the board will attend disciplinary hearings as observers only, letting the hearing officer make the final decision. This does not appear to be in accordance with the law, which names only the board as authorized to levy disciplinary measures. We find nothing in the statutes that authorizes the transfer of this authority to a hearing officer.

Current Status - Resolved – The Board adopted an administrative rule establishing a complaint committee comprised of the administrative secretary, legal counsel and the board member from the complainant’s geographical area.

APPENDIX

Board Members



STATE OF ALABAMA

POLYGRAPH EXAMINERS BOARD

Physical Address: 301 S. Ripley Street

Mailing Address: P.O. Box 1511

MONTGOMERY, ALABAMA 36102-1511

334-517-2903

Board Consultants

Earl Jones, Psychologist

Brian Williams, Attorney

Board Members

Gerone Grant, Chairman

Kathy Pierce, Vice Chairman

Gregory Turley, Secretary/Treasurer

W. T. Merritt, Member

Herbert McCants, Jr., Member

Ms. Janice Berry
Examiners of Public Accounts

P. O. Box 302251

Montgomery, AL 36130-2251

March 17, 2020

Re: Board member information

Dear Ms. Berry

Listed below are the current Board members.

Gerone Grant - Chairman

Phenix City, AL 36869

Term expires: November 30, 2019

Gregory Turley - Secretary/Treasurer

Pell City, AL 36203

Term expired: November 20, 2019

Ms. Kathy Melinda Pierce - Vice Chairman

Huntsville, AL 35811-8214

Term Expires: November 30, 2021

William T. Merritt -Board Member

Kinston, AL 36345

Term Expires: November 30, 2019

Mr. Herbert McCants, Jr. - Board Member

Mobile, Alabama 36695

Term Expires: November 30, 2021

CONSULTANTS

Mr. Brian Williams - Legal consultant

Huntsville, Alabama 35802

Term expires: November 30, 2021

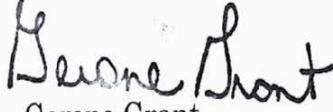
Mr. Earl Jones - Psychological consultant

Dothan, AL 36303

Term expires: November 30, 2020

Sincerely

Alabama Polygraph Examiners Board

A handwritten signature in cursive script that reads "Gerone Grant".

Gerone Grant
Chairman

jb