

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency Board of Polygraph Examiners
Rule No. 740-X-5-.03 (e) (f)
Rule Title: Incompetency Defined
New XX Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Joan Beeb

Date April 30, 2014

(DATE FILED)
(STAMP)

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Polygraph Examiners

RULE NO. & TITLE: 740-X-5-.03 Incompetency Defined

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

The latest research being taught in the polygraph schools recommends these two changes to our Rules and Regulations so that we will be compatible with polygraph teaching nationwide

TIME, PLACE, MANNER OF PRESENTING VIEWS:

11:00 a.m. June 3, 2014
Alabama State Trooper Association Building
825 Adams Avenue, Montgomery, AL 36102

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 18, 2014

CONTACT PERSON AT AGENCY:

Joan Beck
334-353-1881


Joan Beck

740-X-5-.03 Incompetency Defined. Pursuant to the authority and responsibility vested in it by the Alabama Polygraph Examiners Act, and pursuant to the provisions of

□□ 34-25-5(a), 34-25-32(4)(6) of that act, the Board defines incompetency to include, but not be limited to, violation of any of the following minimum standards of competency:

(a) No examiner will use equipment which does not meet all the minimum requirements prescribed in □ 34-25-3 of the act.

(b) No examiner will ask a question during a polygraph examination without first reviewing that question with the examinee.

(c) No examiner will ask a question during a polygraph examination without waiting not less than ten seconds between the end of the preceding answer by the examinee and the beginning of the next question by the examiner.

(d) No examiner will rely upon a polygraph chart which contains less than seven questions.

(e) No examiner will render a verbal or written conclusion or opinion based, in whole or in part, on polygraph chart analysis of any question without having asked that question at least two times. ~~on at least two separate polygraph charts.~~

f) No examiner will perform more than ~~ten~~ six polygraph examinations in any one calendar day.

(g) No examiner will produce a polygraph chart which is not adequately marked by the examiner to identify at a minimum each of the following: the individual being tested, the date of the examination, the time of the chart, the chart and test number, and the examiner's initials. Where charts are produced from instruments which contain electronically enhanced components, an examiner will mark such charts to show the sensitivity level at the beginning of the chart and at any point where the sensitivity level is changed.

(h) No examiner will render a verbal or written conclusion or opinion based upon a polygraph examination performed on an examinee whom the examiner knows or has reason to believe is physically or mentally unfit.

(i) No examiner will report information as factual which the examiner obtained through any means other than personally conducting an interview of the individual being tested, provided, that an examiner is not precluded from rendering a professional opinion based on chart analysis even absent substantive admissions by the individual being tested.

(j) No examiner will conduct a pre-test interview in any manner other than personally and an examiner must conduct each pre-test interview, in its entirety, personally.

Author: Polygraph Examiners Board

Statutory Authority: Code of Ala. 1975, □□ 34-25-5(a), 41-22-4.

History: Filed October 8, 1981. **Amended:** Filed November 6, 1991.

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. _____ Department or Agency Board of Polygraph Examiners
Rule No. 740-X-5-.03 (e) (f)
Rule Title: Incompetency Defined
_____ New XX Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Joan Beeb

Date April 30, 2014

(DATE FILED)
(STAMP)