Chapter 64
Deception Detection Examiners Licensing Act

Part 1
General Provisions

58-64-101 Title.

This chapter is known as the "Deception Detection Examiners Licensing Act."

Enacted by Chapter 215, 1995 General Session

58-64-102 Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Deception detection examination" means the use of an instrument, or software application designed for detecting deception, on an individual for the purpose of detecting whether that individual is engaged in deception.

(2) "Deception detection examination administrator" means an individual who engages in or represents that the individual is engaged in:

(a) conducting or administering a deception detection examination using a software application designed for detecting deception without intervention from the examination administrator; or

(b) the interpretation of deception detection examination results derived from a software application designed for detecting deception.

(3) "Deception detection examiner" means an individual who engages in or represents that the individual is engaged in conducting or performing deception detection examinations or in the interpretation of deception detection examinations.

(4) "Deception detection intern" means an individual who engages in deception detection examinations under the supervision and control of a deception detection examiner for the purpose of training and qualification as a deception detection examiner.

(5) "Instrument" means a polygraph, voice stress analyzer, ocular-motor test, or any other device or software application that records the examinee's cardiovascular patterns, respiratory patterns, galvanic skin response, cognitive response, eye behavior, memory recall, or other physiologic characteristics of the examinee for the purpose of monitoring factors relating to whether the examinee is truthful or engaged in deception.

(6) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-64-501.

(7) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-64-502 and as may be further defined by rule.

Amended by Chapter 154, 2020 General Session

Part 3
Licensing

58-64-301 Licensure required -- License classifications.

(1) A license is required to engage in the practice of deception detection, except as specifically provided in Section 58-64-304 or 58-1-307.

(2) The division shall issue to an individual who qualifies under this chapter a license in the classifications of:
(a) deception detection examiner;
(b) deception detection intern; or
(c) deception detection examination administrator.

Amended by Chapter 201, 2016 General Session

58-64-302 Qualifications for licensure.

(1) Each applicant for licensure as a deception detection examiner:
(a) shall submit an application in a form prescribed by the division;
(b) shall pay a fee determined by the department under Section 63J-1-504;
(c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection examiner is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;
(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;
(f) shall have completed one of the following:
(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or
(iii) have completed a combination of university or college education and investigation experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);
(g) shall have successfully completed a training program in detection deception meeting criteria established by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(h) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
(i) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.
(2) Each applicant for licensure as a deception detection intern:
(a) shall submit an application in a form prescribed by the division;
(b) shall pay a fee determined by the department under Section 63J-1-504;
(c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection intern is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;
(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;
(f) shall have completed one of the following:
(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or
(iii) have completed a combination of university or college education and investigation experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);
(g) shall have successfully completed a training program in detection deception meeting criteria established by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(h) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
(i) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:
(i) a licensed deception detection examiner agrees to supervise the intern; and
(ii) the applicant agrees to be supervised by that licensed deception detection examiner.
(3) Each applicant for licensure as a deception detection examination administrator:
(a) shall submit an application in a form prescribed by the division;
(b) shall pay a fee determined by the department under Section 63J-1-504;
(c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;
(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;
(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience;
(g) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
(h) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

Amended by Chapter 223, 2023 General Session

58-64-302.1 Criminal background check.
(1) An applicant for licensure under this chapter who requires a criminal background check shall:
(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6)

(a) A new license issued under Section 58-64-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-64-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Enacted by Chapter 223, 2023 General Session

58-64-303 Term of license -- Expiration -- Renewal.

(1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show satisfactory evidence of:

(a) having performed not less than 25 deception detection examinations during the two years immediately preceding the date of the renewal notice; and

(b) obtaining recertification within the past two years from the manufacturer of a scientific or technology-based software solution, if the licensee is renewing a deception detection examination administrator license.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Amended by Chapter 201, 2016 General Session

58-64-304 Exemptions from licensure.

In addition to the exemptions from licensure described in Section 58-1-307, a law enforcement officer, as defined under Section 53-13-103, who is not licensed under this chapter, may operate a voice stress analyzer or software application designed for detecting deception in the course of the officer's employment with a federal, state, or local law enforcement agency, if the officer:

(1) has completed the manufacturer's training course and is certified by the manufacturer to operate the voice stress analyzer or software application designed for detecting deception; and

(2) is operating the voice stress analyzer or software application designed for detecting deception in accordance with Section 58-64-601, regarding deception detection instruments.

Amended by Chapter 238, 2016 General Session
Amended by Chapter 238, 2016 General Session, (Coordination Clause)

58-64-305 Status of licenses held on the effective date of this chapter.

An individual holding a valid Utah license as a deception detection examiner or detection examiner intern under Title 53, Chapter 5, Part 3, Deception Detection Examiners Act, on July 1, 1995, is:

(1) on or after July 1, 1995, considered to hold a current license under this chapter in the comparable classification of deception detection examiner or deception detection intern; and

(2) subject to this chapter.

Amended by Chapter 79, 1996 General Session

Part 4
License Denial and Discipline

58-64-401 Grounds for denial of license -- Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Enacted by Chapter 215, 1995 General Session

Part 5
Unlawful and Unprofessional Conduct

58-64-501 Unlawful conduct.

"Unlawful conduct" includes:

(1) a licensee conducting a deception detection examination:

(a) outside of the physical presence of the subject of the examination;

(b) on the subject of the examination by use of any electronic means, including the telephone; and

(c) through any surreptitious means when the subject of the examination is not aware of the examination; and

(2) conducting a deception detection examination if the individual performing the deception detection examinations is located outside of the state and performs a deception detection examination by any electronic means upon a person located within the state.

Enacted by Chapter 215, 1995 General Session

58-64-502 Unprofessional conduct.

"Unprofessional conduct" includes:

(1) using any deception detection instrument that does not meet criteria and standards established by rule by the division; and

(2) using any deception detection instrument that does not make a permanent recording as required under Section 58-64-601.

Amended by Chapter 154, 2020 General Session

Part 6
Operating Standards

58-64-601 Deception detection instruments.

(1) Instruments or software applications used in performing deception detection examinations shall be those that are generally recognized in the profession or, if approved by the director, those with results published in peer-reviewed, scientific journals generally recognized by the scientific community.

(2) An instrument or software application used for deception detection shall have a permanent recording or written report produced by the instrument or software application for objective analysis by the examiner or the division.

(3) A written interpretation by an examiner while conducting a deception detection examination does not satisfy the requirements of a permanent recording.

Amended by Chapter 154, 2020 General Session

Part 7
Regulatory Jurisdiction

58-64-701 State preemption of local regulation.

(1) A political subdivision of the state may not enact legislation, ordinances, or rules relating to the licensing, training, or regulation of deception detection examiners, deception detection interns, or deception detection examination administrators.
(2) Any legislation, ordinances, or rules made by a political subdivision of the state relating to the licensing, training, or regulation of deception detection examiners, deception detection interns, or deception detection examination administrators is superseded by this chapter.

Amended by Chapter 201, 2016 General Session