

**RULES
OF
TENNESSEE PRIVATE INVESTIGATION AND POLYGRAPH COMMISSION**

**CHAPTER 1175-04
RULES OF PROFESSIONAL CONDUCT AND STANDARDS OF PRACTICE**

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1175-04-.01 APPLICABILITY.

The provisions of this chapter shall apply to any person licensed to conduct private investigations in this state, and to any partnership or corporation engaged in the practice of private investigations. For the purpose of this chapter, unless the context otherwise requires, the word "licensee" includes any person, partnership, or corporation.

Authority: T.C.A. § 62-26-303(b). **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995.

1175-04-.02 PROPER CONDUCT OF PRACTICE.

- (1) The licensee shall at all times recognize the primary obligation to protect the health, safety and welfare of the public in the performance of the licensee's professional duties.
- (2) A licensee possessing knowledge of a violation of Tenn. Code Ann. Title 62, Chapter 26, or any rules promulgated thereunder, should report such knowledge to the Tennessee Private Investigation and Polygraph Commission in writing and should cooperate with the Commission in furnishing such further information or assistance as it may require.
- (3) If the licensee becomes aware of a decision taken by an employer, or client, against the licensee's advice, which violates applicable federal, state or local laws and regulations or which may affect adversely the health, safety or welfare of the public, the licensee shall:
 - (a) refuse to consent to the decision; and
 - (b) in circumstances where the licensee reasonably believes that other such decisions will be taken notwithstanding the licensee's objections, terminate services with reference to that employer or client.

Authority: T.C.A. § 62-26-303(b). **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995. Amendment filed September 19, 2003; effective December 3, 2003.

1175-04-.03 SERVICE IN AREAS OF COMPETENCE.

- (1) The licensee shall perform services only in areas of his/her competence. The following acts or commissions, among others, may be deemed to be incompetence and be cause for denial, suspension or revocation of a private investigator's license:
 - (a) Malpractice - includes but is not limited to recklessness, or excessive errors or omissions in the licensee's professional practice.

(Rule 1175-04-.03, continued)

- (b) Disability - includes but is not limited to mental or physical disability or addiction to alcohol or drugs as to endanger health, safety and interest of the public by impairing skill and care in providing professional services.
- (2) The licensee may accept an assignment requiring education or experience outside of his/her own field of competence, but only to the extent that his/her services are restricted to those phases of the assignment in which he/she is qualified.
- (3) In providing services, the licensee shall take into account all applicable laws and regulations. The licensee shall not knowingly provide services resulting in the violation of such laws and regulations.

Authority: T.C.A. § 62-26-303(b). **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995.

1175-04-.04 PUBLIC STATEMENTS.

- (1) The licensee shall be completely objective and truthful in all professional reports, statements, or testimony. He/she shall include all relevant and pertinent information in such reports, statements, or testimony.
- (2) The licensee, when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his/her testimony.

Authority: T.C.A. § 62-26-303(b). **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995.

1175-04-.05 CONFLICTS OF INTEREST.

- (1) The licensee shall not accept compensation (financial or otherwise) from more than one party for services on or relating to the same investigation, set of circumstances, court case, or issues unless all interested parties consent in writing after full disclosure by the licensee.
- (2) The licensee shall avoid all known conflicts of interest with his/her employer or client, and shall promptly inform his/her employer or client of any business association, interest, or circumstance which could influence his/her judgment or the quality of his/her services. When such a conflict is unavoidable, the licensee shall forthwith disclose the circumstances to his/her employer or client.
- (3) The licensee shall take reasonable steps to ascertain the existence of potential conflicts of interests among his/her employers and/or clients. A conflict exists when a private investigator, because of some personal interest, finds it difficult to devote himself with loyalty and singleness of purpose to the best interest of his/her client or employer.
- (4) A private investigations company shall be responsible for avoiding conflicts of interest between:
 - (a) The company and the clients of any private investigator(s) affiliated with the company;
 - (b) The clients of one private investigator affiliated with the company and the clients of any other private investigator(s) affiliated with the company.

(Rule 1175-04-.05, continued)

- (5) No licensee or employee of a licensee shall contact or cause to be contacted any individual under investigation for the purpose of revealing confidential information to that individual. Any such contact with a subject being investigated, whether intentional or unintentional, shall be made a part of the investigative file of such case.

Authority: T.C.A. § 62-26-303. **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995. Amendment filed June 9, 2003; effective August 23, 2003.

1175-04-.06 MISCONDUCT.

- (1) The licensee shall not knowingly associate with, or permit the use of his/her name or firm name in a business venture by any person or firm which he/she knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The licensee shall not furnish any services in such a manner as to enable unlicensed persons to evade the licensure requirements of *Tenn. Code Ann., Title 62, Chapter 26*.
- (3) The licensee, and his/her employees, shall not represent, identify, or suggest to anyone that they are associated with any law enforcement agency.
- (4) The licensee shall not bill a client for services or expenses which have not been provided or incurred. A complete and comprehensive itemized statement of services and expenses must be provided to the client upon request.
- (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.
- (6) A licensee may be deemed by the Commission to be guilty of misconduct in his/her professional practice if:
 - (a) He/she is convicted in a court of competent jurisdiction of a felony, or misdemeanor which the Commission finds reflects unfavorably on the licensee's fitness for licensure;

(Rule 1175-04-.06, continued)

- (b) His/her license or certificate of registration to practice private investigations in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings.

- (7) A Private Investigations Company shall be in responsible charge of any Private Investigators affiliated with such Company. In addition, a Private Investigations Company shall be subject to discipline for any violations of the Tennessee Private Investigators Licensing and Regulatory Act, and any rules promulgated thereunder, committed by its affiliated Private Investigator(s) if the Company knows or should have known about the violation(s) and failed to take timely preventative and/or remedial measures.

Authority: T.C.A. § 62-26-217 and 62-26-303. **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995. Amendment filed June 9, 2003; effective August 23, 2003. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed February 8, 2012; effective May 8, 2012.

1175-04-.07 CONFIDENTIAL CLIENT INFORMATION.

- (1) A licensee shall not disclose any confidential client information without the specific consent of the client.

- (2) This rule shall not be construed to:
 - (a) affect in any way the licensee's obligation to comply with a validly issued and enforceable subpoena or summons;

 - (b) prohibit review of a licensee's professional practice by the Tennessee Private Investigation and Polygraph Commission.

 - (c) prohibit a licensee from utilizing any such relevant information in the defense of a claim asserted against the licensee.

Authority: T.C.A. §§ 62-26-221 and 62-26-303(b). **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995. Amendment filed September 19, 2003; effective December 3, 2003.

1175-04-.08 WRITTEN REPORTS.

Upon the request of a client in good standing, a licensee must submit a written report to that client or his/her designee. A written report shall include all relevant information obtained during the investigation.

Authority: T.C.A. § 62-26-303(b). **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995.