

POLYGRAPHIC EXAMINATIONS

NRS 648.0103 “Polygraph” defined. “Polygraph” means an instrument or electronic or mechanical device which records or measures physiological effects of psychological stimuli to permit the examiner or intern to form an opinion concerning the veracity of statements made by the person examined.

(Added to NRS by 1985, 1328)

NRS 648.0106 “Polygraphic examination” defined. “Polygraphic examination” means the procedure by which an examiner or intern renders his or her expert opinion as to the veracity of statements made by the person examined.

(Added to NRS by 1985, 1328)

NRS 648.0109 “Polygraphic examiner” and “examiner” defined. “Polygraphic examiner” or “examiner” means a person who by virtue of his or her education, training and experience, is capable of conducting a valid and reliable polygraphic examination.

(Added to NRS by 1985, 1328)

NRS 648.183 Polygraphic examination must meet minimum standards and be administered by licensed person before considered or accepted into evidence. In any matter involving the well-being, employment or liability of a person, another person shall not consider or accept into evidence an opinion resulting from a polygraphic examination unless the examination:

1. Meets the minimum standards established by this chapter; and
2. Was administered by a person who holds a valid license as a polygraphic examiner or intern or is qualified as a polygraphic examiner or intern and exempt from the requirement of licensing.

(Added to NRS by 1985, 1330)

NRS 648.185 Approval of polygraph required; conditional approval.

1. Each instrument used to conduct a polygraphic examination must be of a type approved by the Board. The Board shall approve instruments which:

- (a) Are of commercial manufacture;
- (b) Visually, permanently and simultaneously record on a moving graph, physiological effects, including cardiovascular activity, respiratory activity and changes in skin resistance, as well as any other activity which the Board deems relevant to the purposes of a polygraphic examination; and
- (c) Meet the minimum standards of accuracy and reliability adopted by the Board.

2. Nothing in this chapter restricts the development of instruments or electronic or mechanical devices to record physiological events for the purpose of forming an opinion concerning the veracity of a statement made by the person examined.

3. The Board may grant conditional approval to instruments for use in research.

(Added to NRS by 1985, 1330)

NRS 648.187 Person examined must be advised of right to refuse to answer incriminating or degrading questions. Except in the case of an investigation of its own affairs conducted by a law enforcement agency, an examiner or intern shall, before beginning a polygraphic examination, inform the person examined that he or she has the right to refuse to answer any questions if the answer would tend to incriminate or degrade the person.

(Added to NRS by 1985, 1331)

NRS 648.189 Explanation of purpose of examination; consent; prohibited purposes. A polygraphic examination must not be conducted:

1. Unless the person examined is advised of the purpose of the examination.
2. Unless the person examined consents to it in writing.
3. For the purpose of interfering with or preventing lawful activities of organized labor.
4. If the person examined is less than 18 years of age, unless the written consent of a parent or legal guardian has been obtained after the parent or guardian has been informed of the nature of the examination and the matters to be covered.

5. To circumvent or in defiance of the law.

(Added to NRS by 1985, 1331)

NRS 648.191 Technique for conducting examination. In conducting a polygraphic examination, an examiner or intern shall use only standard and widely accepted techniques based on comparison of the reaction to relevant questions and to questions asked as a control or techniques based on comparison of peaks of tension. All questions used during the examination must be reviewed with the person examined before being used. Minor modification of technique, not affecting its integrity, may be used when necessary or appropriate for the issue under investigation.

(Added to NRS by 1985, 1331)

NRS 648.193 Inquiries into examinee's religion, political affiliation, sexual activities or affiliation with labor organization prohibited; exception. During a polygraphic examination, the examiner or intern shall not make inquiries into the religion, political affiliations, affiliations with labor organizations or sexual activities of the person examined unless the person's religion or those affiliations or activities are germane to the issue under investigation and the inquiries are made at the request of the person examined.

(Added to NRS by 1985, 1331)

NRS 648.195 Opinion of examiner.

1. An examiner or intern shall not render a written or oral opinion based upon his or her analysis of polygraphic charts without administering two or more charts with the same questions on at least two of the charts.
2. An examiner or intern shall not render an opinion based upon analysis of polygraphic charts without affording the person examined an opportunity to explain any physiological effects recorded on those charts which indicate deception on the part of the person examined.
3. The opinion of an examiner or intern with regard to a polygraphic examination may refer only to truth or deception on the part of the person examined. An examiner or intern may not give an opinion as to the guilt or innocence of the person examined. An examiner or intern may indicate the person's knowledge of elements of an act as shown

by analysis of polygraphic charts obtained during the conduct of examinations which measure peaks of tension.

4. An examiner or intern shall advise the person examined of his or her opinion concerning the person's veracity within a reasonable time after the examination.

(Added to NRS by 1985, 1331)

NRS 648.197 Chronological log; polygraph charts; records; release of results of polygraphic examination.

1. Each examiner or intern shall maintain a chronological log of all polygraphic examinations which he or she administers. The log must include the date of each examination, the name of the person examined, and an identifying case or file number.

2. All polygraphic charts must be identified with the name of the person examined, the date of the examination, an identifying case or file number and the signature or initials of the examiner or intern.

3. The records of a polygraphic examination, including the written consent of the person examined, the questions asked, notes and charts obtained during the examination, must be maintained in a manner which protects their confidentiality by the examiner or intern or his or her employer, for a period of not less than 3 years.

4. Except when ordered to do so by a court of competent jurisdiction, or as otherwise provided by law, a person who possesses the results of a polygraphic examination or information obtained during a polygraphic examination shall not release the results or the information obtained without the written consent of the person examined.

(Added to NRS by 1985, 1332)

NRS 648.199 Availability of charts and records of examination to other polygraphic examiners. An examiner or intern may make charts and other records of an examination available to another polygraphic examiner or intern or group of polygraphic examiners or interns, including the Board and its representatives, for the purpose of consultation or review under conditions which ensure the confidentiality of the examination and its results.

(Added to NRS by 1985, 1332)