

# West Virginia Division of Labor Requirements / Limitations for Administering Polygraph Exams

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## West Virginia Division of Labor Wage & Hour Section

**Polygraph Fact Sheet 1 - West Virginia State Code Chapter 21, Article 5, Section 5(a).**  
(July 2016)

### POLYGRAPH EXAMINATIONS IN THE WORKPLACE

Outside of law enforcement agencies or those companies involved in the manufacture, storage, distribution or sale of any controlled substance, no employer may require that an employee, or prospective employee, submit to a polygraph examination, or any other type of test that is used for the purpose of evaluating truthfulness, for the purpose of deciding whether to employ or continue the employment of any individual. Whenever a polygraph examination is administered to an employee, or prospective employee, that is involved with the handling of a controlled substance, the results of that examination shall be used for the sole purpose of determining whether to employ, or to continue to employ, that person.

No person shall administer a polygraph examination, or other test used for the purpose of evaluating truthfulness, without holding a valid license to conduct such polygraph examinations as issued by the Commissioner of the West Virginia Division of Labor.

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### POLYGRAPH EXAMINER LICENSES

**The West Virginia Division of Labor offers the Following Categories of Polygraph Licenses:**

- A **“Class I license”** authorizes an individual to administer psychophysiological detection of deception examinations (polygraphs) for all purposes which are permissible under the provisions of Article 21, Chapter 5, Section 5(a) of the West Virginia State Code. To qualify for a Class I license, satisfactory evidence is required to verify the applicant holds a baccalaureate degree and has graduated from a school of polygraphy accredited by the American Polygraph Association.
- A **“Class II license”** authorizes an individual who is a full-time employee of a law-enforcement agency to administer psychophysiological detection of deception examinations (polygraphs) to the agency’s own employees, or prospective employees. To

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qualify for a Class II license, satisfactory evidence is required to verify that the applicant holds an associate degree and has graduated from a school of polygraphy accredited by the American Polygraph Association.

### **Required Qualifications for Licensure**

In order to apply for a West Virginia polygraph examiner's license, the applicant must verify that he or she:

1. Is at least twenty-one years of age.
2. Is a citizen of the United States.
3. Has not been convicted of a misdemeanor involving moral turpitude or a felony.
4. Has not been released or discharged with other than honorable conditions from any of the armed services of the United States.
5. Has satisfactorily completed a six-month internship period with a licensed West Virginia polygraph examiner.
6. Has graduated from a school of polygraphy accredited by the American Polygraph Association.
7. Holds the educational degree necessary to qualify for the type of license under application.
8. Has passed an examination conducted by the Commissioner of Labor to determine his or her competency to obtain a license to practice as an examiner.

### **Required Forms & fees**

The following forms must be completed and submitted to the Division of Labor along with the required \$100.00 application fee. Any check or money order issued as payment of the fee is to be made payable to the Division of Labor. All required forms are available directly from the Division of Labor's website.

1. Polygraph Examiner Application.
2. Code of Ethics Form.
3. Polygraph Examiner's Affidavit.

### **Required Supporting Documents**

In addition to the polygraph examiner application, code of ethics form, the polygraph examiner's affidavit, and the \$100.00 fee, the following information must also accompany the application:

1. A copy of the applicant's birth certificate.

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2. A recent full-face photograph (no larger than 3" X 4") must be attached to the application form in the area designated.
3. A copy of an educational degree, or school transcripts, appropriate for the type of license application.
  - a. Class I licenses require a baccalaureate degree.
  - b. Class II licenses require an associate degree.
4. Evidence that the applicant has graduated from a school of polygraphy accredited by the American Polygraph Association.
5. A written statement from a licensed West Virginia polygraph examiner stating that the applicant has completed the required internship requirements.

### **EXAMINATION PROCEDURES**

Once an individual's application has been reviewed and determined complete, a representative of the Division will contact the applicant for the purpose of scheduling the written exam. Examinations are scheduled based on the availability of Division staff as well as the availability of an area suitable for testing. Although exams are scheduled at the discretion of the Division of Labor, every effort is made to schedule the exam at a time that is also convenient to the applicant.

All exams are given at the main office of the Division of Labor, which is located on the grounds of the State Capitol Complex in Charleston.

In order to receive a passing grade, the applicant must obtain an overall minimum score of 70%. If the applicant receives a passing score, the Division will immediately issue a license to operate as a polygraph examiner.

Any applicant who fails the written test may be rescheduled to take the test one additional time without an additional fee. However, an additional \$50.00 will be charged for each test administered after the second attempt. §42CSR-6-3

### **RECIPROCITY AGREEMENTS**

The Commissioner of Labor has entered into a reciprocity agreement with the Commonwealth of Virginia relating to the licensure of polygraph examiners. Individuals that have held a polygraph examiner license with the Commonwealth of Virginia for a period of at least two years may apply for a West Virginia license without being required to serve an internship period and take the written test. All other licensure requirements apply.