

PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 83]

Physical and Mental Criteria, Including Vision Standards, Relating to the Licensing of Drivers

The Department of Transportation (Department), under the authority in 75 Pa.C.S. §§ 1504, 1508, 1508.1, 1517, 1518 and 6103, proposes to amend Chapter 83 (relating to physical and mental criteria, including vision standards relating to the licensing of drivers) to read as set forth in Annex A.

Purpose

The purpose of Chapter 83 is to set forth physical and mental criteria, including vision standards, for the licensing of drivers formulated by the Medical Advisory Board under 75 Pa.C.S. §§ 1517 and 1518 (relating to Medical Advisory Board; and reports on mental or physical disabilities or disorders). In addition to their use by the Department in connection with its responsibilities under 75 Pa.C.S. (relating to Vehicle Code), these physical and mental criteria are to be used by medical providers in conducting physical examinations of applicants for learner permits and driver licenses, and by physicians and other persons authorized to diagnose and treat disorders and disabilities covered in Chapter 83 to determine whether a person should be reported to the Department as having a disorder affecting the ability of the person to drive safely.

Purpose of the Proposed Rulemaking

The purpose of this proposed rulemaking is to update the medical requirements and standards for license holders that have brain disease, cognitive impairment, or a mental or emotional disorder. Since medical testing and treatment methods continue to evolve, the Department is updating its minimum standards to ensure that only drivers that are in stable condition are licensed to operate a motor vehicle.

These regulations reflect consultation with the Department's Medical Advisory Board as required under 75 Pa.C.S. §§ 1517 and 1518. The Medical Advisory Board, after conducting in-depth reviews and discussions, has determined that these regulations require amendment to make them consistent with existing medical practice and improved technology.

Summary of Significant Amendments

Proposed amendments to § 83.2 (relating to definitions) add the terms "brain disease," "cognitive functions," "dementia," "mental or emotional disorder," "neurologist," "psychiatrist" and "psychologist."

Section 83.5(a)(5) (relating to other physical and medical standards) is proposed to be added to disqualify individuals that have a moderately severe cognitive impairment.

Proposed amendments to § 83.5(b)(5) authorize the disqualification by a health care provider of anyone that has brain disease, cognitive impairment, or a mental or emotional disorder that may impair his ability to drive safely and that is manifested by one or more of the following symptoms: inattentiveness to driving; inclina-

tion toward suicide beyond mere contemplation; excessive aggressiveness, impulsivity or disregard for the safety of self or others, or both, presenting a clear and present danger, regardless of cause; and signs of Alzheimer's disease or dementia in Stage 3 or greater.

Proposed § 83.5(b)(5)(ii) authorizes a waiver from disqualification providing that in the health care provider's opinion the individual's condition has stabilized and symptoms are not likely to recur.

Proposed amendments to § 83.5(c) include every condition listed in § 83.5(b) and the provision to require a knowledge test when appropriate. In addition, proposed amendments to § 83.5(c) add the requirement for an individual who has any of the conditions described in § 83.5(b) to submit results of a satisfactory assessment of cognitive or emotional functioning, or both, conducted by a psychiatrist, neurologist or licensed psychologist. In addition to the assessment, the individual shall successfully complete the knowledge test and on-road driving evaluation initially and every 12 months thereafter.

Persons and Entities Affected

This proposed rulemaking affects persons qualified or intending to be qualified to drive and health care providers.

Fiscal Impact

Implementation of this proposed rulemaking will not require the expenditure of additional funds by the Commonwealth or local municipalities. This proposed rulemaking will not impose additional costs on the medical community and may reduce costs by providing clearer medical criteria and thus reduce unnecessary reporting by physicians and the need for follow-up medical examinations for drivers.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 29, 2015, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Effective Date

This proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* following the appropriate evaluation of comments, suggestions or objections received during the public comment period.

Sunset Date

The Department is not establishing a sunset date for these regulations, as the regulations are needed to administer provisions required under 75 Pa.C.S. The Depart-

ment will continue to closely monitor these regulations for their effectiveness, in coordination with the Medical Advisory Board.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Kara N. Templeton, Director, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676, ktempleton@pa.gov within 30 days of the publication of this proposed rulemaking in the Pennsylvania Bulletin.

Contact Person

The contact person for technical questions about the proposed rulemaking is Laura Krol, Acting Manager, Driver Safety Division, Department of Transportation, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676, (717) 787-2977, lkrol@pa.gov.

LESLIE S. RICHARDS, Acting Secretary

Fiscal Note: 18-465. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 83. PHYSICAL AND MENTAL CRITERIA, INCLUDING VISION STANDARDS RELATING TO THE LICENSING OF DRIVERS

§ 83.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—75 Pa.C.S. [§] §§ 101—9910 (relating to Vehicle Code).

Aura—An epileptic episode, sometimes experienced before or in lieu of a seizure, which does not alter an individual's ability to think clearly or interfere with an individual's mechanical or sensory ability to operate a motor vehicle.

Brain disease—A condition of the brain that may impair important functions such as memory, speech, vision, spatial perception, strength or coordination of movement, and cognitive functions.

CRNP—Certified registered nurse practitioner—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

Chiropractor—A practitioner of chiropractic as defined in 75 Pa.C.S. § 1508.1(b) (relating to physical examinations) and 75 Pa.C.S. § 1518(g) (relating to reports on mental or physical disabilities or disorders).

Cognitive functions—Human abilities such as speech and language, complex levels of perception, attention, reasoning, judgment, reading and writing, and several types of memory.

Daylight—Hours between sunrise and sunset.

Dementia—Brain diseases, including, but not limited to, Alzheimer's disease and vascular dementia, that are characterized by deficits in multiple cognitive functions. In the early stages, it can manifest as absentmindedness or forgetfulness. As the condition progresses, symptoms become more numerous and more severe. The stages of dementia, as defined by the Alzheimer Association, are as follows:

Stage 1—No impairment

Stage 2—Very mild cognitive decline

Stage 3—Mild cognitive decline

Stage 4—Moderate cognitive decline

Stage 5—Moderately severe cognitive decline

Stage 6—Severe cognitive decline

Stage 7—Very severe cognitive decline

Department—The Department of Transportation of the Commonwealth.

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Licensed physician—A doctor of medicine licensed by the State Board of Medicine or a doctor of osteopathy licensed by the State Board of Osteopathic Medical Examiners.

Mental or emotional disorder—A condition, whether organic or without known organic cause—as described and defined in the current Diagnostic and Statistical Manual of Mental Disorders, including its Introduction or International Classification of Diseases—manifested by important symptoms and functional changes such as psychosis (often with hallucinations or delusions), excessive anxiety or severe mood swings (mania and severe depression). Some mental disorders cause poor judgment, excessive aggressiveness, suicidal thinking or other behaviors that might affect driving performance.

Neurologist—A licensed physician who is Board-eligible or Board-certified in neurology.

Nocturnal—As used in relation to seizures, the term means occurring during sleep.

Psychiatrist—A licensed physician who is Board-eligible or Board-certified in psychiatry.

Psychologist—A person licensed as a psychologist.

Seizure—A paroxysmal disruption of cerebral function characterized by altered consciousness, altered motor activity or behavior identified by a licensed physician as inappropriate for the individual.

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§ 83.5. Other physical and medical standards.

(a) General disqualifications. [A person] An individual who has any of the following conditions will not be qualified to drive:

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(4) Periodic episodes of loss of consciousness which are of unknown etiology or not otherwise categorized, unless the person has been free from episode for the year immediately preceding.

(5) Brain disease resulting in a moderately severe cognitive impairment, including, but not limited to, individuals diagnosed with Stage 5, 6 or 7 Alzheimer's disease or dementia.

(b) *Disqualification on provider's recommendation.* [**A person**] **An individual** who has any of the following conditions will not be qualified to drive if, in the opinion of the provider, the condition is likely to impair the ability to control and safely operate a motor vehicle:

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(5) [**Mental disorder, whether organic or without known organic cause, as described in the current *Diagnostic and Statistical Manual of Mental Disorders* (DSM) published by the American Psychiatric Association, 1700 18th Street NW, Washington, DC 20009, especially as**] **Brain disease, cognitive impairment, or a mental or emotional disorder that is manifested by the symptoms set forth in [subparagraphs (i)—(iii)] subparagraph (i).** While signs or symptoms of mental disorder may not appear during examination by the **health care** provider, evidence may be derived from the [**person's**] **individual's** history as provided by [**self**] **the individual** or others familiar with the [**person's**] **individual's** behavior.

[(i) **Inattentiveness to the task of driving because of, for example, preoccupation, hallucination or delusion.**

(ii) **Contemplation of suicide, as may be present in acute or chronic depression or in other disorders.**

(iii) **Excessive aggressiveness or disregard for the safety of self or others or both, presenting a clear and present danger, regardless of cause.]**

(i) **An individual will be disqualified if the individual has:**

(A) **An inattentiveness to the task of driving because of, for example, preoccupation, hallucination or delusion.**

(B) **An inclination towards suicide that goes beyond mere contemplation of suicide.**

(C) **Excessive aggressiveness, impulsivity or disregard for the safety of self or others, or both, presenting a clear and present danger, regardless of cause.**

(D) **Signs of Alzheimer's disease or dementia in Stage 3 or greater.**

(ii) **An individual diagnosed with a mental or emotional disorder who has manifested one or more of the symptoms in subparagraph (i) may receive a waiver from disqualification provided that in the treating health care provider's opinion, the individual's condition has stabilized and the symptoms are unlikely to recur.**

(A) **Additional examinations are not required provided the treating health care provider determines that the individual's condition remains under good control.**

(B) **The treating health care provider may recommend further testing and even disqualification if the symptoms described in subparagraph (i) recur.**

(6) **Periodic episodes of loss of attention or awareness which are of unknown etiology or not otherwise categorized, unless the person has been free from episode for the year immediately preceding, as reported by a licensed physician.**

(7) **Use of any drug or substance, including alcohol, known to impair skill or functions, regardless whether the drug or substance is medically prescribed.**

(8) **Other conditions which, in the opinion of a provider, is likely to impair the ability to control and safely operate a motor vehicle.**

(c) *Driving examination and submission of medical information.* A person who has any of the conditions enumerated in subsection [(b)(1), (2), (3) or (8)] (b) may be required to undergo a **knowledge test or a driving examination, or both,** to determine driving competency[,] if the Department has reason to believe that the person's ability to safely operate a motor vehicle is impaired. The person may be restricted to driving only when utilizing appropriate adaptive equipment. **A person who has any of the conditions described in subsection (b)(5) shall submit results of a satisfactory assessment of cognitive or emotional functioning, or both, conducted by a psychiatrist, neurologist or licensed psychologist. In addition to the assessment, the knowledge test and on-road driving evaluation shall be successfully completed initially and then every 12 months thereafter.**

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