

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 3 AND 7]

Rescission of Brucellosis Testing Requirements; Advance Notice of Proposed Rulemaking

The Department of Agriculture (Department) provides notice that it intends to pursue a proposed rulemaking to rescind regulations establishing Brucellosis testing standards and requirements. Interested individuals are invited to provide comments on this proposed action.

Section 3.22 (relating to Brucellosis requirements), which imposes general Brucellosis testing requirements for cattle, goats and buffalo, is targeted for rescission. Chapter 7 (relating to Brucellosis regulations), which contains more extensive provisions regarding Brucellosis, is also targeted for rescission.

The Department will propose to rescind § 3.22 and Chapter 7 because the prescribed testing is no longer necessary to protect the health of domestic animals in this Commonwealth. These regulations were amended in 1991, and in the intervening 24 years the threat posed by Brucellosis has lessened to the point the regulations are outdated, unnecessary and an impediment to commerce. In addition, the United States Department of Agriculture has, through its Animal and Plant Health Inspection Service, established uniform methods and rules addressing Brucellosis eradication.

Written comments should be sent no later than July 18, 2015, to the Department of Agriculture, Bureau of Animal Health and Diagnostic Services, ATTN: Craig Shultz, DVM, Director, 2310 North Cameron Street, Harrisburg, PA 17110-9408. The Department will consider all comments received.

As of publication of this notice, the Department will cease active enforcement of § 3.22 and Chapter 7 and pursue the rescission of these regulations.

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 15-1267. Filed for public inspection July 10, 2015, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 71]

School Bus Drivers; Medical Requirements and Standards

The Department of Transportation (Department), under the authority in 75 Pa.C.S. §§ 1504, 1508, 1508.1, 1509, 1517, 1518 and 6103, proposes to amend Chapter 71 (relating to school bus drivers) to read as set forth in Annex A.

Purpose

The purpose of Chapter 71 is to define more fully the requirements of 75 Pa.C.S. § 1509 (relating to qualifica-

tions for school bus driver endorsement) by listing minimum medical requirements for school bus drivers.

Purpose of the Proposed Rulemaking

The purpose of this proposed rulemaking is to update the medical requirements and standards for school bus drivers who have brain disease, a cognitive impairment or a mental/emotional disorder. Since medical testing and treatment methods continue to evolve, the Department is proposing to update the minimum standards to ensure that only school bus drivers who are in stable condition are qualified to transport children.

Summary of Significant Amendments

Section 71.2 (relating to definitions) is proposed to be amended to add the terms “brain disease,” “cognitive functions,” “dementia,” “mental or emotional disorder,” “neurologist,” “psychiatrist” and “psychologist.”

Proposed amendments to § 71.3(b)(11) (relating to physical examination) add minimum cognitive and mental/emotional requirements for school bus drivers.

Section 71.3(b)(11)(i) is proposed to be added to include brain disease or deficits of cognitive function in the list of disqualifying conditions.

Section 71.3(b)(11)(ii) is proposed to be added to outline the disqualifying symptoms for individuals who are not diagnosed with a mental/emotional disorder.

Section 71.3(b)(11)(ii)(A) is proposed to be added to outline the requirements for restoration of the school bus driving privilege.

Section 71.3(b)(11)(ii)(B) is proposed to be added to authorize the Department to require qualifying school bus drivers to pass a school bus knowledge and skills test.

Section 71.3(b)(11)(ii)(C) is proposed to be added to allow for a waiver to be granted provided the individual remains symptom free and in the treating health care provider’s opinion, the individual has stabilized and symptoms are not likely to recur. The Department may require the individual to pass a school bus knowledge and skills test.

Section 71.3(b)(11)(iii) is proposed to be added to prohibit school bus drivers diagnosed with Alzheimer’s disease or dementia in Stage 3 or greater from driving a school bus.

Persons and Entities Affected

This proposed rulemaking affects licensed school bus drivers and persons interested in becoming school bus drivers who have impairment from brain disease or deficits of cognitive function.

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 June 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 form 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. (relating to Vehicle Code). The Department 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,
Secretary

Fiscal Note: 18-464. 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 71. SCHOOL BUS DRIVERS

§ 71.2. Definitions.

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

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 certi-

fied 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).

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

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:

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.

* * * * *

Hypoglycemic reactions—Different degrees of hypoglycemia which are classified as follows:

Mild—Hypoglycemia that signals a blood glucose drop, which the individual can self-correct with oral carbohydrates.

Severe—Hypoglycemia that requires outside intervention or assistance of others or that produces confusion, loss of attention or a loss of consciousness.

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 and 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.

Physical examination—An examination, including an eye examination, given to determine the physical and mental fitness of a person to drive a school bus safely.

Physician—A licensed physician as defined in § 83.2 (relating to definitions).

Physician assistant—A person certified by the State Board of Medicine to assist a physician or group of

physicians in the provision of medical care and services and under the supervision and direction of the physician or group of physicians.

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

Psychologist—A person who is licensed as a psychologist.

Pupil Transportation Section—The Pupil Transportation Section of the Bureau of Driver Licensing of the Department.

* * * * *

§ 71.3. Physical examination.

* * * * *

(b) *Requirements of physical examination.* [A person] An individual is physically qualified to drive a school bus if the [person] individual:

* * * * *

[(11) Has no mental, emotional or psychiatric disorder whether functional or organic which may be manifested in a condition likely to impair the ability to drive a school bus safely, such as inattentiveness, despondency, aggressiveness, or lack of concern for the safety of self or others.]

(11) Meets the following cognitive and mental or emotional requirements:

(i) Has no impairment from brain disease or deficit of cognitive function, which is likely to impair the ability to drive a school bus safely, such as inattentiveness, despondency, aggressiveness, impulsivity or lack of concern for the safety of self or others.

(ii) Has not been diagnosed with a mental or emotional disorder and does not manifest one or more of the symptoms described in subparagraph (i). An individual diagnosed with a disorder or who manifests these symptoms will be disqualified to drive a school bus.

(A) Restoration of the school bus driving privilege requires the individual to submit a satisfactory psychiatric or cognitive impairment form, or both,

which includes an examination of the individual's cognitive and emotional functioning completed by a psychiatrist, neurologist or licensed psychologist.

(B) If the psychiatric or cognitive impairment form, or both, is satisfactory, the individual may be required to successfully pass a school bus specific knowledge and skills test.

(C) A disqualified individual may be granted a waiver from disqualification provided that the individual remains symptom free and the individual's condition, in the treating health care provider's opinion, has stabilized and symptoms are not likely to recur. Additionally, the individual may be required to successfully pass a school bus specific knowledge and skills test.

(D) Provided the condition of the individual remains under good control, additional examinations will not be required unless recommended by the treating health care provider.

(iii) Has not been diagnosed with Alzheimer's disease or dementia in Stage 3 or greater.

(12) Has no hearing loss greater than 40 decibels in the better ear, without a hearing aid, at frequencies of 500, 1,000, and 2,000 Hz. (Reference American National Standards Institute (ANSI) 1969 for earphones: Dirks and others, *Journal of Speech and Hearing Disorders*, J.S.H.D. Vol. 44, 2/79, 34-54- in a sound field for warble tones). A person who is required to wear a hearing aid to meet the standards of this paragraph shall be tested by an audiologist or a licensed physician—M.D. or D.O.—who specializes in the treatment of otolaryngology. An audiologist is an individual who has a certificate of clinical competence in audiology awarded by the American Speech, Language and Hearing Association or is licensed as an audiologist under the Speech-Language and Hearing Licensure Act (63 P. S. §§ 1701—1719). The individual who performs the test shall certify that the person has passed the test. A person who requires a hearing aid to meet the requirements of this paragraph shall also:

* * * * *

[Pa.B. Doc. No. 15-1268. Filed for public inspection July 10, 2015, 9:00 a.m.]