

RULES AND REGULATIONS

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 75]

Driver's License Examination

The Department of Transportation, under 75 Pa.C.S. §§ 1504(c), 1508.1 and 6103 (relating to classes of licenses; physical examinations; and promulgation of rules and regulations by department), amends §§ 75.2 and 75.6 to read as set forth in Annex A.

Purpose of Chapter 75

The purpose of Chapter 75 (relating to driver's license examination) is to define more fully the requirements of 75 Pa.C.S. §§ 1504(c), 1508, 1508.1(a), 1514(b) and 1607 by listing the specific requirements with regard to each step in the examination process.

Purpose of the Final-Form Rulemaking

The current provisions of Chapter 75 require that an applicant for a driver's license who has never been licensed in this Commonwealth or another state submit to a physical examination by a licensed physician, a certified registered nurse practitioner or a physician's assistant. The purpose of this final-form rulemaking is to include chiropractors among the listed healthcare providers who can administer a physical examination for new driver applicants.

Chiropractors are recognized in the healthcare and health insurance industries as portal of care practitioners, that is, primary care providers, permitted to furnish necessary patient care for health maintenance. In 2004, the General Assembly amended 75 Pa.C.S. (relating to Vehicle Code) to specifically authorize chiropractors to conduct examinations required for the issuance of a driver's license.

Moreover, chiropractors are permitted under Federal regulations to conduct the biennial medical examinations for commercial drivers required by Federal Highway Administration Motor Carrier Safety regulations. The addition of chiropractors as provided in this final-form rulemaking make Department regulations consistent with current health care practices, 75 Pa.C.S. and Federal regulations.

Summary of Comments and Changes to Final-Form Rulemaking

Public comment was received from the Pennsylvania Academy of Family Physicians and the Pennsylvania Medical Society objecting to the inclusion of chiropractors as medical professionals authorized to conduct examinations required for the issuance of a driver's license. Both organizations argue that chiropractors are not medically qualified to conduct the basic medical examination required under 75 Pa.C.S. Both organizations argue that chiropractors lack the training and experience of physicians and doctors of osteopathy to make sophisticated diagnoses, particularly with regard to neurological and neuro-psychiatric disorders as well as most physical disorders.

The objections overstate the sophistication of the basic medical examination required under the Vehicle Code. Moreover, these amendments to Chapter 75 merely conform the regulation to include the authorization of chiro-

practors to conduct the required examinations which has already been authorized in the 2004 amendments to 75 Pa.C.S. enacted by the General Assembly and signed by the Governor.

Comments in favor of the proposed rulemaking were received from the Pennsylvania Chiropractors Association and from Edward J. Krzykwa, Doctor of Chiropractic.

The sole comment of the Independent Regulatory Review Commission (IRRC) was that the definition of "chiropractor" in the proposed rulemaking differed slightly from the definition in 75 Pa.C.S. It was recommended that the definition be revised to conform verbatim to the definition in 75 Pa.C.S. or be replaced by a reference to the statutory definition. The recommended change to the definition has been made.

Persons and Entities Affected

The final-form rulemaking affects chiropractors as well as individuals wishing to obtain a driver's license whose primary care provider is a chiropractor or who otherwise desire to have the physical examination required to obtain a driver's license conducted by a chiropractor.

Fiscal Impact

Implementation of the final-form rulemaking will not require the expenditure of additional funds by the Commonwealth or local municipalities. The final-form rulemaking will not impose additional costs on the medical community and may reduce costs to individuals by allowing applicants for a driver's license to have the required physical examination performed by their primary care provider.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 17, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 6420 (December 4, 2004), to IRRC and the Chairpersons of the House and Senate Transportation Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on February 21, 2007, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 1, 2007, and approved the final-form rulemaking.

Sunset Date

The Department is not establishing a sunset date for the regulations since the regulations are needed to administer provisions required by 75 Pa.C.S. The Department, however, will continue to closely monitor the regulations for their effectiveness.

Contact Person

The contact person for this final-form rulemaking is Anne P. Titler, Acting Manager, Driver Safety Division,

Bureau of Driver Licensing, 4th Floor, Riverfront Office Center, 1101 S. Front Street, Harrisburg, PA 17104, (717) 783-4737.

Order

The Department orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 75, are amended by amending §§ 75.2 and 75.6 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality and form as required by law.

(c) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

ALLEN D. BIEHLER, P. E.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 1284 (March 17, 2007).)

Fiscal Note: Fiscal Note 18-398 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 75. DRIVER'S LICENSE EXAMINATION

Subchapter A. GENERAL PROVISIONS

§ 75.2. Definitions.

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

Applicant—A person who has never been licensed in this Commonwealth to operate any type of motor vehicle; or a person seeking to qualify to operate a vehicle of different classification or to add an endorsement, or to remove a restriction from that driver's license; or a person who is a nonresident of this Commonwealth seeking to be licensed to operate any type of motor vehicle.

Basic control skills test—A test that evaluates an applicant's ability to operate and control the test vehicle and judge the position of the test vehicle in relationship to objects on a course marked by permanent or temporary boundaries.

CRNP—Certified registered nurse practitioner—A registered nurse licensed in this Commonwealth who is certified, by both the State Board of Nursing and the State Board of Medicine, 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).

Class A driver's license—A license issued to a person 18 years of age or older who has demonstrated the qualifications to operate any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the vehicle being towed is in excess of 10,000 pounds.

Class B driver's license—A license issued to a person 18 years of age or older who has demonstrated the qualifications to operate any single vehicle with a GVWR of 26,001 pounds or more, or any vehicle towing another vehicle with a GVWR of not more than 10,000 pounds.

Class C driver's license—A license issued to a person 18 years of age or older, except as provided in 75 Pa.C.S. § 1503 (relating to persons ineligible for licensing), who has demonstrated the qualifications to operate any single vehicle, except those vehicles requiring a Class M qualification, with a GVWR of not more than 26,000 pounds or any combination of vehicles, except combination vehicles involving motorcycles, that does not meet the definition of either Class A or Class B.

Class M driver's license—A license issued to a person who has demonstrated the qualifications to operate a motorcycle. A Class M license accompanied by an endorsement shall be issued to a person who has demonstrated the qualifications to operate a motor-driven cycle. If a person is qualified to operate only a motorcycle or motor-driven cycle, that person shall be issued only a Class M license or a Class M license with an endorsement, as applicable.

Commercial driver's license—The term as defined in 75 Pa.C.S. § 1603 (relating to definitions).

Commercial driver's license endorsement—An alphabet code added to the commercial driver's license upon successful completion of a specialized knowledge test or a specialized knowledge and skill examination identifying the licensee as qualified to operate certain specialized commercial motor vehicles.

Commercial driver's license restriction—An alphabet code added to the commercial driver's license that prohibits the licensee from operating certain types of commercial motor vehicles as a result of either examination failure or examination in a test vehicle lacking certain equipment integral to the safe operation of that vehicle.

Commercial motor vehicle—The term as defined in 75 Pa.C.S. § 1603.

GVWR—Gross vehicle weight rating—The value specified on the Federal weight certification label by the manufacturer as the loaded weight of a single vehicle.

Noncommercial driver's license—A license issued to an individual qualified to drive a class of motor vehicle other than a commercial motor vehicle. Noncommercial Class A or Class B motor vehicles include motor homes or recreational trailers operated solely for personal use, and motorized construction equipment, including motorscrapers, backhoes, motorgraders, compactors, excavators, tractors, trenchers and bulldozers.

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.

Pretrip circle check—A walk around a single or combination vehicle visually inspecting various equipment items listed on a checklist, in which the driver looks for broken wires, loose bolts, cracks in metal, lights that do not work, flat tires or other damage which could affect the safe operation of the single or combination vehicle.

Specialized knowledge examination—An examination to determine the ability of the applicant to operate certain specialized commercial motor vehicles, including vehicles transporting hazardous materials in placardable amounts, tank vehicles, double and triple trailers, passenger carrying vehicles, school buses or vehicles equipped with air brakes, to add an endorsement or to remove a commercial driver's license restriction from the commercial driver's license.

§ 75.6. Physical examination.

An applicant for a driver's license, who has never been issued a driver's license in this Commonwealth or another state, shall submit to a physical examination performed by a licensed physician, a CRNP, a physician assistant or a chiropractor. The licensed physician, CRNP, physician assistant or chiropractor performing the examination shall report the findings of the physical examination to the Department on a physical examination certificate or form provided by the Department. The Department may request that the report be submitted on a special certificate relating to the alleged mental or physical disability of the applicant or licensee.

[Pa.B. Doc. No. 07-594. Filed for public inspection April 6, 2007, 9:00 a.m.]
