

REPORTING OF DRIVER IMPAIRMENT MODEL LAW

§ (1) DRIVER LICENSING-

(a) No license may be issued to an applicant the department determines would not be able to operate a motor vehicle safely because of a physical or mental disability.

(b) The Department shall suspend or revoke a person's license or issue a limited license, or impose conditions and limitations that in its judgment are necessary to assure the safe operation of a motor vehicle by the licensee, including:

- (i) limiting operation to a particular vehicle or vehicles;
- (ii) limiting operation to a particular class or classes of vehicles;
- (iii) limiting operation to a specific time of day and/or location;
- (iv) limiting operation to a specified duration of time if the impairment is determined to be temporary; and/or;
- (v) requiring special devices on a motor vehicle or the wearing of a prosthesis by the licensee when operating a motor vehicle.

The Department may impose other limitations applicable to the licensee that the Department determines to be appropriate to assure the safe operation of a motor vehicle by the licensee. The limited license issued by the Department shall specify the limitations imposed.

(c) If the driving impairment was determined likely to be temporary, after the period of time specified as covering the impairment period, the applicant or licensee may reapply to the Department for an unrestricted license if the application is accompanied by a report from a physician certifying that the temporary condition has elapsed.

(d) A violation of any restriction imposed on a license is equivalent to driving without being licensed and is subject to the same penalties and other sanctions.

(e) A driver operating under a limited license shall have the license in his possession at all times when operating a vehicle.

§ 2 MEDICAL ADVISORY BOARD - DEFINITION OF DISORDERS, DISABILITIES OR DISEASES AFFECTING DRIVING CAPABILITY, REVIEW PANEL

(a) The Department shall establish a Medical Advisory Board comprised of licensed physicians and other professions deemed necessary and may set compensation for Board members.

- (b) The Department shall refer to the Medical Advisory Board for an advisory opinion in the case of any licensee or applicant for a license if the Department believes that the driving of a vehicle by that person would be contrary to public safety and welfare because of an existing or suspected physical or mental condition. The Advisory Opinion shall include a recommendation for appropriate action by the Department.
- (c) In the formulation of the requested advisory opinion, the Medical Advisory Board may ask questions and request any tests it deems necessary to develop that advisory opinion.
- (d) The Chairman of the Medical Advisory Board shall designate individual members of the board to act as the review panel of the Medical Advisory Board and conduct evaluations of applicants or licensees and make recommended findings, as authorized pursuant to subsection 2(b).
- (e) The Medical Advisory Board shall define and publish a list of disorders characterized by lapses of consciousness and other mental or physical disabilities and diseases affecting the capability of a person to drive safely. The list is intended to provide guidance to health care providers who may contemplate reporting of a driver for medical review by the Board. This list shall not be construed to limit in any way the review performed by the Board.
- (f) The medical advisory board shall meet in-person or by teleconference or videoconference at least one time a year to review this list of medical or physical disabilities and diseases and conduct the administrative work of the Board.
- (g) The number of members, and the governing and administrative rules of the board, shall be determined and implemented by Department regulation. The Department shall provide administrative support to assist the Medical Advisory Board in the development of advisory opinions. Members shall be appointed by the Commissioner, with the assistance of the Department of Public Health.
- (h) Any member of the Medical Advisory Board shall be presumed prima facie to be acting in good faith and in doing so shall be immune from any administrative, civil, or criminal liability that otherwise might be incurred or imposed because of the recommendations, reports or other official actions made by the Medical Advisory Board.

§3 REPORTS BY HEALTH CARE PROVIDERS

- (a) Health care providers, authorized to diagnose or treat diseases, disorders, disabilities, or conditions specified by the Medical Advisory Board as potentially rendering a person incompetent to drive, may notify the Department in writing of the full name, date of birth and address of every person 15 years of age or older diagnosed as having a disease, disorder, disability or condition which may impair driving to a degree that precludes the safe operation of a motor vehicle, and which is either:

1. uncontrollable (either through medication, therapy or surgery; or by driving device or technique);
2. controllable, but the patient does not comply with the recommendations of the health care provider for treatment or restricted driving; or
3. the extent of driver impairment is unknown but potentially significant.

(b) Reports, recommendations or opinions, findings or advice received or made by the Department for the purpose of determining whether a person is qualified to be licensed to drive are for the confidential use of the Department and may be admitted in proceedings to suspend, revoke or impose limitations on the use of the driver's license. Any official conducting a license examination may compel a health care provider to provide relevant records, written opinion or testimony concerning observations and findings made pursuant to subsection (a). Reports, recommendations, opinions, findings or advice received or made by the Medical Advisory Board or the Department for the purpose of determining whether a person is qualified to be licensed to drive may not be used in any proceedings to establish or prove competencies other than qualification to operate a vehicle.

(c) Any health care provider participating in the making of a notification pursuant to this section shall be presumed prima facie to be acting in good faith and in doing so shall be immune from any civil, administrative or criminal liability that otherwise might be incurred or imposed because of such notification. Compliance with, or failure to comply with the requirements of this section does not constitute negligence, nor may compliance or noncompliance with the requirements of this section be admissible as evidence of negligence in any civil or criminal action.

(d) If the Department receives a report on an out-of-state resident, it shall forward a copy of that report to that person's home State Department.

§ 4 DRIVER'S LICENSE EXAMINATIONS

(a) Having been notified a licensed driver or applicant for licensure may lack the capacity to drive safely due to one or more mental or physical conditions, including but not limited to a notification by a health care provider of a driver's medical or physical disability, the Department, upon at least five-days written notice to the licensee, may require such person to submit to a behind-the-wheel road test of the person's driving capability, a road safety knowledge test, or it may request an Advisory Opinion of the Medical Advisory Board as provided for in §2(b), or it may do any or all three..

(b) Refusal or neglect of the licensee or applicant to submit to a behind-the-wheel road test, a road safety knowledge test or to cooperate with the evaluation of the Medical Advisory Board shall be immediate grounds for suspension or revocation of such person's license.

(c) Once the behind-the-wheel road test, the road safety knowledge test, and/or the evaluation of the Medical Advisory Board is completed, the Department shall make a determination as to whether the licensed driver or applicant has an impairment that effects the person's ability to operate a motor vehicle safely and immediately implement the appropriate licensing action.

(d) The Department shall notify the person tested, the Medical Advisory Board, and the reporting health care provider (if any) of any impairment determination and/or licensing action within 30 days of the determination. Any licensing action the Department orders is effective immediately.

(e) Within 30 days after notification by the Department, the licensed driver or applicant tested may forward to the Department a written report or request for a reconsideration by a health care provider of the driver's or applicant's choice. The request for reconsideration may specify review by a different physician member of the Medical Advisory Board.

(f) Upon the conclusion of its reconsideration, the review panel of the Medical Advisory Board may sustain the Department decision, or recommend any one of the following actions:

- (i) suspend or revoke the license of such person;
- (ii) permit such person to retain the license;
- (iii) issue a license subject to restrictions as to the type or class of vehicles that may be driven, and/or to the type of driving, including daytime driving only, area-restricted driving, driving restricted as to the type of roads driven, or other limitations applicable to the licensee the review panel determines to be appropriate to assure the safe operation of a motor vehicle by the licensee; and/or
- (iv) require periodic medical re-examinations and/or periodic road tests to ensure a driver with a progressive medical condition maintains the capability to continue to drive safely.

The review panel shall report its findings and recommendations to the Department, the applicant or licensee, and to a court if such report is requested.

(g) Upon receiving a recommendation from the review panel of the Medical Advisory Board concerning an applicant or licensee, which differs from the Department's original determination, the Department shall accept the recommendation of the review panel and provide the licensed driver or applicant with the final determination in writing within 15 days of receiving the Medical Advisory Board's recommendation. Any licensing action takes immediate effect with this final notification.

§ (5) Right of Appeal to Court

(a) Any person whose license has been suspended, revoked or limited by the department, after utilizing the administrative appeals process, shall have the right to file a petition for

a hearing on the matter in (*a court of record*) in the county wherein such person resides. This court is hereby vested with jurisdiction. The licensed driver or applicant shall file the petition for review within 30 days of receiving the Department's final written determination, shall state the factual and legal claims upon which the petitioner relies, and shall provide proof of service of the petition upon the Department. The court shall set the matter for hearing upon thirty days' written notice to the Department and thereupon shall take testimony on the record, examining the facts of the case. Filing the petition for appeal shall not stay the suspension, revocation or limitation imposed on the license.

(b) The court shall determine whether the Department properly adhered to its procedures in suspending, terminating or limiting the petitioner's license, and whether petitioner is entitled to a license or is subject to denial, revocation or limitation of license. If the court finds that the Department exceeded its constitutional or statutory authority, made an erroneous interpretation of the law, acted in an arbitrary and capricious manner, or made a factual determination unsupported by the evidence in the record, the court may reverse the Department's determination. Notification to a driver of any driving limitations should be accompanied by information on procedures for appealing the decision.

§ (6) RULE MAKING

The department may adopt regulations necessary to carry out the provisions and intent of this act.

§ (7) DEFINITIONS

(a) "Commissioner" means Commissioner of Motor Vehicles of this State¹.

(b) "Department" means the Department of Motor Vehicles of this State.²

(c) "Driver" means a person who drives or is in actual physical control of a motor vehicle.

(d) "Driver's license" means any license to operate a motor vehicle issued under the laws of this State.

(e) "Driving" means operating or being in physical control of a vehicle.

¹ If the term "Commissioner" is not appropriate in a particular State, then the appropriate term and definition should be substituted.

² If the administration of this code is not vested in the Department of Motor Vehicles within a particular state, the above definition should be revised to designate the appropriate department or bureau of the State government to administer this code.

(f) “Health care” means care, services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:

(1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

(2) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

(g) “Health care provider” means a provider of medical or health services and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

(h) “Medical Advisory Board” means a health advisory board consisting of *{insert a number or range of numbers}* members, including at least three physicians, appointed by the commissioner *with the assistance of the (State Department of Public Health)*, to advise the commissioner on medical criteria and vision standards relating to the licensing of motor vehicle drivers and provide Advisory Opinions regarding the capacity of individuals to safely operate a motor vehicle.

(i) “Motor vehicle” means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.

(j) “Notification” means written notification by first class mail sent to the applicant or licensee of the determination of the review panel of the medical advisory Board. Date of the notification is the mail post mark.

(k) “Physician” means a person licensed to practice medicine holding a valid MD or DO (Doctor of Osteopathic Medicine) degree.

(l) “Review panel” means that portion of the Medical Advisory Board designated by that Board to review the driving competency of applicants or licensees.

(m) “Revocation” of driver’s license means the termination by formal action of the Department of a person’s license or privilege to operate a motor vehicle on the highways, which terminated license or privilege shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the Department after the expiration of the applicable period of time prescribed in this code.

(n) “Suspension” of the driver’s license means the temporary withdrawal by formal action of the Department of a person’s license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the Department.

