

Regulatory Analysis Form		This space for use by IRRC RECEIVED 2004 APR -7 PM 3:14 RENEW COMMISSION	
(1) Agency Transportation		IRRC Number: 2346	
(2) I.D. Number (Governor's Office Use) # 18-374			
(3) Short Title Physical and Mental Criteria, Including Vision Standards Relating to the Licensing of Drivers			
(4) PA Code Cite 67 Pa. Code, Chapter 83		(5) Agency Contacts & Telephone Numbers Primary Contact: Rebecca L. Bickley (717) 787-4701 Secondary Contact: Michael P. Kistler (717) 772-2119	
(6) Type of Rulemaking (Check One) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The purpose of these amendments is to provide for waiver of the seizure-free requirements for drivers who have a seizure disorder but who are not a threat to public safety, to adopt new vision criteria to provide a waiver from the corrective lens requirement for certain drivers, and to provide for a restricted license for certain drivers whose combined visual acuity is less than 20/70 but is at least 20/100.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Authority for these amendments is found in Sections 1517, 1518, and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, <i>as amended</i> (75 Pa.C.S. §§ 1517, 1518, and 6103)			

(10) Is the regulation mandated by any federal or state law or court order, or federal regulations? If yes, cite the specific law, case or regulation, and any deadlines for action.

These amendments to the regulation are not mandated by any federal or state law or court order or federal regulations.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Advances in the practice of medicine and in medical research have caused medical providers to reevaluate the risk to the public safety posed by drivers treating for seizure disorder whose disorder is successfully controlled. Medical advances have shortened the time in which the provider can determine that the disorder is controlled or otherwise not an impediment to the safe operation of a motor vehicle. Similarly, advances in ophthalmological research indicate that some individuals with limited visual acuity can nevertheless operate a vehicle safely with restrictions. These amendments appropriately reflect these advances in medicine and will permit individuals heretofore prohibited from driving to obtain a driver's license, without risk to the safety of the motoring public.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Failure to amend these regulations will continue to prohibit individuals who are capable of operating a motor vehicle safely from obtaining a driver's license.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Individuals with seizure disorders controlled by medication or otherwise eliminated will benefit from the shorter time frames during which they must demonstrate that they were seizure free. Individuals with diminished visual acuity who are nevertheless able to safely drive will also benefit from the more current medical standards in the amendments to the regulation. The precise number of individuals who will benefit cannot be determined.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There should be no adverse impact on any individuals from these amendments to the regulation. Individuals with visual acuity below 20/70 who obtain a restricted license will be required to have an annual vision examination; this inconvenience and cost, however, is easily outweighed by the grant of the driving privilege.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

It is not known precisely how many individuals with seizure disorders, lower visual acuity, or other physical or mental challenges will be required to comply with these regulations. The number should increase only slightly, however, as the only new group of individuals which will be affected are those with visual acuity between 20/70 and 20/100 who, without these amendments, are not permitted to drive at all.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

These proposed amendments are the result of in-depth reviews and discussions conducted by the Medical Advisory Board. In addition, the Department sought participation from hospitals, rehab facilities and other interest groups in the development of these standards.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The costs and/or savings to the regulated community resulting from these amendments are marginal and cannot be calculated with any precision.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There should be no costs and/or savings to local governments resulting from these amendments to the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There should be no costs and/or savings to state government resulting from these amendments to the regulation.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

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	Current FY Year	FY + 1 Year	FY + 1 Year	FY + 3 Year	FY + 4 Year	FY + 5 Year
SAVINGS:	\$ N/A	\$	\$	\$	\$	\$
Regulated Community:	N/A					
Local Government:	N/A					
State Government:	N/A					
Total Savings	N/A					
COSTS:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Costs	N/A					
REVENUE LOSSES:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Revenue Losses	N/A					
(20a) Explain how the cost estimates listed above were derived. N/A						
(20b) Provide the three year expenditure history for programs affected by the regulation.						
Program	FY-3	FY-2	FY-1	Current FY		
Safety Administration and Licensing (Approp. 183)	\$ 106,182,000	\$ 119,141,000	\$ 118,299,000	\$ 130,529,000		

<p>(21) Using cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.</p> <p>N/A</p>				
<p>(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.</p> <p>There were no nonregulatory alternatives considered. The changes in the medical standards could not be effected without amendment of the regulation.</p>				
<p>(23) Describe alternative regulatory schemes and the costs associated with those schemes. Provide the reasons for their dismissal.</p> <p>No alternative regulatory schemes were considered.</p>				
<p>(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.</p> <p>There are no applicable federal standards governing the state's licensing of drivers.</p>				
<p>(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?</p> <p>This regulation will not put Pennsylvania at a competitive disadvantage vis a vis other states.</p>				
<p>(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.</p> <p>These amendments will not affect other Department regulations or the regulations of any other Commonwealth agency.</p>				
<p>(27) Will any public hearings or informal meetings be scheduled? Please provide the dates,</p>				

times and locations, if available.

No public hearings on these amendments are scheduled at this time. Should public comment on these proposed amendments warrant, public hearings may be held.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Reporting requirements included in § 83.6 of these amendments are not new but are required by 75 Pa. C.S. § 1518. These amendments reduce the reporting requirement somewhat by making clear in § 83.5(b) that some conditions need not be reported if the condition is expected to resolve in less than 90 days.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

These amendments are all designed to meet the particular needs of individuals with some physical or mental limitation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

These amendments will become effective upon publication in final form in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

These provisions will be reviewed periodically as appropriate by the Medical Advisory Board to ensure that they stay current with future advances in medicine and medical research.

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**

NOTICE OF FINAL RULEMAKING

Preamble

The Department of Transportation, pursuant to the authority contained in Sections 1517, 1518, and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §§ 1517, 1518, and 6103), hereby adopts amendments to Title 67, Chapter 83 of the Department of Transportation Regulations (relating to physical and mental criteria, including vision standards relating to the licensing of drivers), to read as set forth Annex A.

Purpose of Chapter

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 pursuant to Sections 1517 and 1518 of the Vehicle Code (75 Pa.C.S. §§ 1517 and 1518). In addition to their use by the Department in connection with its responsibilities under the 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.

Summary of Comments and Changes in Final Adopted Regulation

The amendments to the regulation were published as a proposed rulemaking in the August 23, 2003 issue of the *Pennsylvania Bulletin*. The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees of the Pennsylvania General Assembly.

IRRC submitted several comments on the proposed regulation relating to clarity and consistency of the language in the regulation. The first comment noted a discrepancy between the definition of “aura” in the proposed rulemaking and the description of an aura in the Preamble. The definition describes an aura as a seizure which did not interfere with mechanical or sensory ability while the Preamble indicated it was an event experienced *prior* to a seizure. In response to the comment, the definition in the rulemaking has been clarified to state that an aura is: “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.”

IRRC also pointed out inconsistency in the phrasing in § 83.3 describing visual acuity standards. In response, all references have been changed to “visual acuity of less

than.” IRRC also requested in § 83.3(c)(3) (regarding drivers limited to roads other than freeways) a cross-reference to the definition of “freeway” in the Vehicle Code. The cross-reference has been inserted.

IRRC also suggested that the language in § 83.3(5) (regarding drivers limited to driving “within a specific geographic area.” lacked clarity. The provision was clarified to read: “If determined by the Department to be appropriate, the person’s driving privilege is limited to driving within a limited radius of the person’s residence as recommended by a licensed physician.” This language permits drivers with visual limitations to be permitted to drive in familiar territory near to their home as their physician may recommend.

IRRC noted that § 83.4, strictly construed, permitted drivers who experienced only one aura in the previous six months to continue driving but would disqualify drivers who had experienced more than one aura. This was not the intent. The provision has been clarified to provide that drivers who have experienced only auras within the previous six months are not disqualified to drive.

In § 83.5(b)(2)(i) and (b)(3)(i) (relating to disqualification on a provider’s recommendation), IRRC noted that the proposed rulemaking provided that the “provider shall inform the patient of the prohibition against driving due to the functional impairment” and questioned how the Department planned to enforce the requirement. There is no mechanism to enforce this provision and it was intended as a reminder to providers that, even if the functional impairment does not require reporting to the

Department, patients should be advised that it is unlawful to drive. The provisions have been made advisory by changing “shall” to “should.”

IRRC also noted that § 83.5(b)(5) (relating to evidence of mental disorder) used the phrase “examination by a physician.” IRRC pointed out that the Pennsylvania Psychological Association (PAA) had also commented that this phrase excluded non-physician providers who also diagnose mental disorder. The phrase has been changed to “examination by a provider.” IRRC commented further that the language relating to behavioral history “provided by self or others” lacked clarity with respect to who the “others” might be. The provision has been changed to “as provided by self or others familiar with the person’s behavior.” It is thought that this language is broad enough to include relatives, friends, co-workers, neighbors with the qualification that they have familiarity with the person’s behavior. This language is preferable to a list of specific relationships which could include many with little knowledge of the person’s behavior and exclude individuals with considerable knowledge.

IRRC also sought clarity in § 83.5(c) permitting the Department to require a driver to undergo a “special driving examination.” IRRC questioned what a “special driving examination” would entail. There is no “special” driving examination intended by this section and the word “special” has been eliminated. The section now provides that, if the Department has reason to believe that a driver, otherwise apparently qualified to drive under this chapter, does not have the ability to safely operate a motor vehicle, the Department may require the driver to undergo a driving examination to determine competency.

Finally IRRC noted an inconsistency in the references to “physicians” and “licensed physicians” throughout the proposed rulemaking. Since “licensed physician” is defined in § 83.2 of the regulation, IRRC suggested that this term be used throughout. The change to “licensed physician” has been made with respect to provisions requiring a condition to be verified by a physician to clarify that the verification must be made by a properly credentialed professional. In § 83.4(c) and § 83.6, however, the provisions impose a reporting requirement consistent with section 1518 of the Vehicle Code (75 Pa. C.S. § 1518). Section 1518 of the Vehicle Code uses the term “physician” not “licensed physician. The change suggested by IRRC, if applied in § 83.4(c), could inappropriately limit the reporting requirement to “licensed physicians.” Clarification in § 83.4(c) has been achieved by changing the word “physician” to “provider.” No change to the language of § 83.6, which mirrors that of 75 Pa. C.S. § 1518, has been made.

Alan Welder of Shillington, Pennsylvania, proposed changes to the regulation relating to the 120° field of vision requirement in § 83.3(e). He specifically suggested that measurement of a driver’s field of vision be permitted within 5° of the horizontal meridian to allow for consideration of the height of an individual driver. The optometrist serving on the medical advisory board has indicated that, to the extent that the comment urges that more specific visual field standards be quantified, the comment has merit. The optometrist opined that this one specific change in the regulation would not be beneficial as it does not address all of the many complex factors to be considered in the development of more specific visual field standards. On this advice of the member of the

medical advisory board, the Department has not made the change suggested by this citizen.

Comment was also received from the Pennsylvania Optometric Association fully supporting the proposed rulemaking.

The Pennsylvania Psychological Association (PAA) commented that § 83.5(b) as drafted reads that a person will not be qualified to drive if they have a condition “likely to impair the ability to control and safely perform motor functions necessary to drive a motor vehicle. PAA notes that some of the skills delineated thereafter in the section relate to cognitive skills not motor skills. The language has been changed to “likely to impair the ability to control and safely operate a motor vehicle,” to capture all types of conditions. The PAA also commented that § 83.5(b)(5) (relating to evidence of mental disorder) used the phrase “examination by a physician.” PAA notes that this phrase excluded non-physician providers who also diagnose mental disorder. As noted above, the phrase has been changed to “examination by a provider.”

Edward H. Dench, Jr., MD submitted comments as President of the Pennsylvania Medical Society (Pa. Med. Soc.) which noted that generally, there was no opposition to the proposed amendments. With respect to §83.4 Dr. Dench commented that the reduction of the required seizure-free period from twelve to six months before restoration of driving privileges, and the amendment permitting persons who only experience auras to drive both seemed reasonable given advances in treatment regimens for seizure disorders. He commented, however, that persons who experience an aura prior to seizure should not be allowed to drive unless they complete the six month seizure-free period,

with possible noted exemptions. First, the Department would note that the provisions of §83.4(b) provide for a waiver of the seizure-free period requirement only upon the recommendation of a licensed physician. Individual physicians may disagree in their judgment regarding whether a person who has had a seizure or seizures within the previous six months which were preceded by “a specific prolonged aura accompanied by sufficient warning” should be permitted to drive. The restriction proposed by Dr. Dench would prohibit from driving a person who may continue to have periodic seizures but who is able, because of the prolonged aura preceding the seizure, to safely cease operation of the vehicle before the onset of the seizure. The Department does not believe the medical community is united in the view that this should always be the case. And the Department would note again that the recommendation of a licensed physician would be required before the driving privilege would be restored.

Dr. Dench’s letter also conveyed a comment of a Pa. Med. Soc. member regarding § 83.4(c)(4). As proposed, the language appears to permit a person who has been seizure-free for six months but suffers a seizure as a result of a head injury to receive a waiver to continue driving. The comment notes that the presence of an early post-traumatic seizure may increase the likelihood of subsequent seizures and recommends that the six month seizure-free period **not** be waived in the case of post – traumatic seizures. The Department’s consulting physician agrees and “non-recurring trauma” has been deleted from the regulation.

Persons and Entities Affected

These regulations affect all persons qualified or desiring to be qualified to drive, health care providers, and the Pennsylvania State Police.

Fiscal Impact

Implementation of these regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These regulations will not impose any 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. It may impose additional costs on drivers wishing to apply for the restricted license for low vision drivers because of the requirement for an annual vision examination.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. 745.5(a), on August 11, 2003, the Department submitted a copy of the notice of proposed rulemaking, published at 33 Pa. B 4171, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees for review and comment.

In preparing this final-form rulemaking, the Department has considered all comments received from the public, IRRC and the Committees.

Under section 5.1(j.2) of the Regulatory Review Act, on _____, this final-form regulation was deemed approved by the House and Senate Transportation Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 9, 2003 and approved the final-form regulation.

Effective Date

This rulemaking will be effective on the date of publication in the *Pennsylvania Bulletin*.

Sunset Provisions

The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required pursuant to the Vehicle Code (75 Pa. C.S. § 101, et seq.). The Department, however, will continue to closely monitor these regulations for their effectiveness.

Contact Person

The contact person for technical questions about this regulation is Michael P. Kistler, Manager, Driver Safety Division, Bureau of Driver Licensing, 1101 S. Front Street, 4th floor, Harrisburg, Pennsylvania 17104, telephone number: (717) 772-2119.

Order

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 Pa. Code , Chapter 83 is amended as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this Order and Annex A hereto 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 the same 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 of Transportation

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:

* * * * *

Aura—An epileptic seizure 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.

* * * * *

Licensed optometrist—A doctor of optometry licensed by the State Board of [Optometrical Examiners] Optometry.

* * * * *

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

* * * * *

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.

Seizure Disorder—Condition in which an individual has experienced a single seizure of electrically diagnosed epilepsy, or has experienced more than one seizure not including seizures resulting from an acute illness, intoxication, metabolic disorder, or trauma.

* * * * *

§ 83.3. Visual standards.

(a) *Driving without corrective lenses.* A person with visual acuity of 20/40 or better combined vision may drive without corrective lenses[, but if that person has less visual acuity than 20/40 in one eye, that eye shall be corrected to its best visual acuity].

(1) If a person with visual acuity of 20/40 or better combined vision, however, has less visual acuity OF LESS than 20/40 in one eye, the vision in that eye shall be corrected to its best visual acuity.

(2) A person with visual acuity of 20/40 or better combined vision and who has visual acuity of less than 20/40 in one eye, may drive without corrective lenses upon determination by a licensed optometrist or ophthalmologist that the person's combined vision would not be improved by the use of corrective lenses.

(b) *Driving with corrective lenses.* A person with less visual acuity OF LESS than 20/40 combined vision shall wear lenses correcting [his] combined vision to 20/40 or better while driving, except that if correction to 20/40 is not possible, the person may drive in daylight hours only if one of the following are met:

* * * * *

(c) *Visual acuity of less than 20/70.*

(1) A person with visual acuity of less than 20/70 combined vision but at least 20/100 combined vision with best correction may apply for and may be issued a restricted license only upon recommendation of a licensed optometrist or ophthalmologist or licensed physician who has equipment to properly evaluate visual acuity, and only if the following conditions or limitations are satisfied:

(i) The person takes and successfully passes a complete vision examination, including plotted visual fields, upon application and annually thereafter.

(ii) The person takes and successfully passes a driver's examination upon application.

(iii) The person's driving privilege is limited to roads other than freeways, AS DEFINED IN SECTION 102 OF THE VEHICLE CODE (75 PA. C.S. § 102).

(iv) The person's driving privilege is limited to passenger vehicles weighing no more than 10,000 pounds, and excludes operation of a motorcycle.

(v) If determined by the Department to be appropriate, the person's driving privilege is limited to driving within a ~~specific geographic area~~ LIMITED RADIUS OF THE PERSON'S RESIDENCE AS RECOMMENDED BY A LICENSED PHYSICIAN.

(2) Violation of these conditions or limitations shall result in the recall of the restricted license. In addition, an annual review of the person's accident and violation history will be conducted by the Department and the restricted license may be recalled if the Department

determines that the person was involved in an at fault accident or convicted of two moving violations committed within a 1-year period.

(d) Visual acuity of less than 20/100. A person with visual acuity of less than [20/70] 20/100 combined vision with best correction [is] will not [authorized] be qualified to drive.

[(d)] (e) Vision requirements. A person shall have a combined field of vision of at least [140°] 120° in the horizontal meridian, excepting the normal blind spots.

[(e)] (f) Sight in one eye. A person may be adequately sighted in only one eye and still meet the requirements of this section[; however, the]. The person's driving privilege will be restricted to vehicles having mirrors so located as to reflect to the person a view of the highway for a distance of at least 200 feet to the rear.

[(f)] (g) * * *

§ 83.4. [Epilepsy] Seizure disorder.

(a) *General.* A person [suffering from epilepsy may] who has a seizure disorder will not be qualified to drive unless [their personal licensed] a LICENSED physician reports that the person has been free from seizure for [a period of] at least [1 year] 6 months immediately preceding, with or without medication. A person will not be disqualified if the person has experienced only an auraS during that period.

(b) [Applicants between the ages of 16 and 18 years. Applicants between the ages of 16 and 18 years applying for their first license shall have been free from seizure for a period of at least 2 years immediately preceding, with or without medication.

(c)] *Waiver.* Waiver of the freedom from seizure requirement may be made upon specific recommendation by a licensed physician [who specializes in neurology or neurosurgery] if one of the following conditions apply:

(1) A strictly nocturnal pattern of [the condition] seizures or a pattern of seizures occurring only immediately upon awakening has been established over a period of at least [3] 2 years immediately preceding, with or without medication[; or].

(2) A specific prolonged aura accompanied by sufficient warning has been established over a period of at least [5] 2 years immediately preceding, with or without medication .

(3) The person previously had been free from seizure for a 6 month period and the subsequent seizure or seizures occurred as a result of a prescribed change in or removal from medication while under the supervision of a licensed physician. This waiver will only be provided upon reinstatement of previous medication.

(4) The person previously had been free from seizure for 6 months and the subsequent seizure or seizures occurred during or concurrent with a nonrecurring transient illness, toxic ingestion, OR metabolic imbalance, or nonrecurring trauma.

(c) Reporting requirements for physicians. Every physician who treats a person who has experienced a single seizure shall provide, consistent with 75 Pa. C.S. § 1518(b) (relating to reports on mental or physical disabilities or disorders), a report to the Department which shall constitute cause for the Department to direct the person to undergo an examination prescribed under 75 Pa. C.S. § 1519 (relating to determination of incompetency).

§ 83.5. Other physical and Medical standards.

(a) *General disqualifications.* A person [afflicted by] who has any of the following conditions [may] will not be qualified to drive [if, in the opinion of the examining physician, the conditions are likely to interfere with the ability to control and safely operate a motor vehicle]:

(1) [Loss or impairment of the use of a foot, leg, finger, thumb, hand or arm, as a functional defect or limitation.

(2)] * * *

[(3)] (2) Cerebral vascular insufficiency or cardiovascular disease [, including hypertension, with accompanying signs and symptoms] which, within the preceding 6 months, has resulted in one or more of the following:

(i) Syncopal attack or loss of consciousness.

(ii) Vertigo, paralysis, or loss of qualifying visual fields.

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

(b) Disqualification on provider's recommendation. A person 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 perform motor functions necessary to drive OPERATE a motor vehicle:

(1) Loss of a joint or extremity as a functional defect or limitation.

(2) Impairment of the use of a joint or extremity as a functional defect or limitation.

(i) The provider shall SHOULD inform the patient of the prohibition against driving due to the functional impairment.

(ii) The provider shall inform the Department in writing of the impairment if the condition has lasted or is expected to last longer than 90 days.

[(5)] (3) Rheumatic, arthritic, orthopedic, muscular, vascular, or neuromuscular disease.

(i) The provider shall SHOULD inform the patient of the prohibition against driving due to the functional impairment.

(ii) The provider shall inform the Department in writing of the impairment if the condition has lasted or is expected to last longer than 90 days.

(4) Cerebral vascular insufficiency or cardiovascular disease which, within the preceding 6 months, has resulted in lack of coordination, confusion, loss of awareness, dyspnea upon mild exertion or any other sign or symptom which impairs the ability to control and safely perform motor functions necessary to operate a motor vehicle.

[(6) Mental deficiency or marked mental retardation in accordance with the International Classification of Diseases. For diagnostic categories, terminology and concepts to be used in classification, the physician should refer to the *Diagnostic and Statistical Manual* of the American Psychiatric Association and the *Manual on Terminology and Classification in Mental Retardation* of the American Association on Mental Deficiency.

(7)] (5) Mental [or emotional] disorder, whether organic or [functional] 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 manifested by the symptoms set forth in (i)—(iii).

While signs or symptoms of mental disorder may not appear during examination by the physician PROVIDER, evidence may be derived from the applicant's PERSON'S history as provided by self or others FAMILIAR WITH THE PERSON'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.

(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.

[(8)] (7) * * *

[(9) Another] (8) Any other condition which, in the opinion of [the examining licensed physician, could interfere with] a provider, is likely to impair the ability to control and safely operate a motor vehicle.

[(b)](c) Special-dDriving examination. A person [afflicted by] who has any of the conditions enumerated in subsection [(a) (1), (5), or (9)] (b)(1), (2), (3), or (8) may be required to undergo a special-driving examination 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 [a vehicle equipped in a manner prescribed by the examining licensed physician or by the Department] only when utilizing appropriate adaptive equipment.

§ 83.6. Providers to report unqualified persons.

Physicians and other persons authorized to diagnose and treat disorders and disabilities defined by the Medical Advisory Board shall report to the Department, in writing, the full name, date of birth, and address of every person ~~15~~ 16 years of age and older diagnosed as having any specified disorder or disability within 10 days, under 75 Pa. C.S. § 1518 (relating to reports on mental or physical disabilities or disorders).

2004 APR -7 PM 3:14

REGISTRY COMMISSION

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General.

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections attached.

Copy of below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

Department
of
Transportation
(Agency)

DOCUMENT/FISCAL NOTE NO. 18-374

DATE OF ADOPTION _____

BY Allen D. Biebler
Secretary of Transportation

Copy below is hereby approved as to
form and legality. Executive or
Independent Agencies.

BY [Signature]
4/2/04
(Date of Approval)

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike Inapplicable Title)

Check if applicable. No attorney
General Approval or Objection within
30 days after submission.

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF TRANSPORTATION

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**

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
www.dot.state.pa.us



(717) 787-6485

April 7, 2004

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor Harristown 2
333 Market Street
Harrisburg, PA 17101

**Re: Regulation #18-374: 67 Pa. Code, Chapter 83 — Final Rulemaking —
Physical and Mental Criteria, Including Vision Standards relating to
the Licensing of Drivers**

Dear Mr. Nyce:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for Amendments to 67 Pa. Code, Chapter 83, Physical and Mental Criteria, Including Vision Standards relating to the Licensing of Drivers, which the Department of Transportation intends to adopt in accordance with the provisions of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1201 *et seq.*, and the Regulatory Review Act, 71 P.S. § 745.1 *et seq.*

Copies of these materials were also delivered today to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees.

The Department of Transportation will provide you with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen F. J. Martin". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Stephen F. J. Martin
Regulatory Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: #18-374

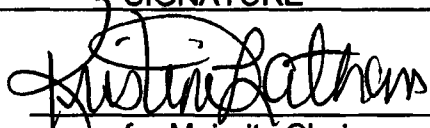

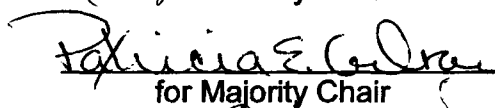


SUBJECT: Physical and Mental Criteria, Including Vision Standards relating to the Licensing of Drivers, 67 Pa. Code, Chapter 83

AGENCY: Department of Transportation

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
4/7/04	 for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION
4/7/04	 for Minority Chair	
4/7	 for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION
4/7	 for Minority Chair	
4/7/04		INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (N/A)
_____	_____	LEGISLATIVE REFERENCE BUREAU

Date: April 7, 2004

2004 APR -7 PM 3:16
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 DEPARTMENT OF TRANSPORTATION