



# Pennsylvania MEDICAL SOCIETY®

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INDEPENDENT REGULATORY REVIEW COMMISSION

May 10, 2004

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Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harrisstown 2  
333 Market Street  
Harrisburg, Pennsylvania 17101

Department of Transportation Proposed Rulemaking: Physical and Mental Criteria, Including Vision Standards Relating to the Licensing of Drivers

Dear Chairman McGinley:

I am writing as President of the Pennsylvania Medical Society to comment on the Department of Transportation's proposed regulations on Physical and Mental Criteria, Including Vision Standards Relating to the Licensing of Drivers that are currently before the Independent Regulatory Review Commission for approval. The Medical Society offers no specific comments on the proposed revisions to the criteria for conditions affecting a person's ability to safely operate a motor vehicle that are reportable to the Department of Transportation by physicians and other health care practitioners.

The Medical Society does wish to raise a long-standing concern over reporting of mental conditions and the interplay of that reporting requirement with patient confidentiality obligations. The Society understands that, as a general rule, the Department of Transportation impairment reporting requirements will override patient confidentiality obligations. However, specific patient confidentiality statutes may preclude physicians from complying with the driver impairment reporting requirement. The Commonwealth's Mental Health Procedures Act, which governs involuntary outpatient and all inpatient mental health treatment, imposes stringent confidentiality requirements. The Department of Public Welfare, which is responsible for the implementation and oversight of the Procedures Act, contends that the confidentiality requirements prevail over Transportation's reporting requirement. Federal law also imposes stringent confidentiality provisions on drug and alcohol treatment facilities. The regulations state that the federal restrictions take precedence over state mandated reporting requirements other than mandatory child abuse reporting.

The Medical Society, together with the Pennsylvania Psychiatric Society, has sought clarification to resolve these issues in dialogue and communications with the Department of Transportation.

While the conflict between impairment reporting and patient confidentiality probably cannot be addressed in the proposed regulations currently before the Independent Regulatory Review Commission, the Medical Society would ask the Department of Transportation to continue to work with us toward a workable solution.

Sincerely,

Jitendra M. Desai, MD  
President

CC: Rebecca L. Bickley, Director, Bureau of Driver Licensing

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