

Regulatory Analysis Form		<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">This space for use by IRRC</p> <p style="text-align: center;">2007 FEB -1 PM 2:38</p> <p style="text-align: center;">INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>IRRC Number: <u>2450</u></p>	
(1) Agency Transportation			
(2) I.D. Number (Governor's Office Use) # 18-398			
(3) Short Title Driver's License Examination			
(4) PA Code Cite 67 Pa. Code, Chapter 75		(5) Agency Contacts & Telephone Numbers Primary Contact: Janet Dolan (717) 787-4701 Secondary Contact: Anne P. Titler (717) 783-4737	
(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 allow chiropractors to administer physical examinations for new drivers required under Section 1508(a) of the Vehicle Code, 75 Pa. C.S. § 1508(a).			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Authority for these amendments is found in Sections 1504(c), 1508(a), 1508.1 and 6103 of the Vehicle Code, 75 Pa. C.S. §§ 1504(c), 1508(a), 1508.1 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?

Pennsylvania law requires an applicant for a driver's license to submit to a physical examination. The current provisions of the regulation require that an applicant for a driver's license who has never been licensed in the Commonwealth or another state submit to a physical examination by a licensed physician, a certified registered nurse practitioner or a physician's assistant. 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. Chiropractors are also permitted under by 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 amendment make Department regulations consistent with current health care practices and federal regulations.

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

Failure to amend these regulations will continue to prohibit chiropractors from performing the initial physical examination for driver licensing, denying access to recognized health care providers for purposes of complying with required statutory and regulatory provisions.

(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 who use a chiropractor as their primary care provider will be able to have the examination performed by that provider. Chiropractors will benefit by added recognition as health care professionals. The precise number of individuals or chiropractors who will benefit cannot be determined with any accuracy.

(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.

(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.)

All applicants for a Pennsylvania driver's license are required to comply with this Chapter. It is not known precisely how many individuals will comply by having the required physical

examination performed by a chiropractor.

(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 discussions with the Pennsylvania Chiropractic Association.

(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.

	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
Appropriation 183	\$ 118,558,000	\$ 124,925,000	\$ 125,958,000	\$129,459,000

(21) Using cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There were no nonregulatory alternatives considered. The addition of chiropractors to the list of health care practitioners who can perform the physical examination could not be effected

without amendment of the regulation.

(23) Describe alternative regulatory schemes and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

(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.

There are no applicable federal standards governing the state's licensing of drivers.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation will not put Pennsylvania at a competitive disadvantage vis a vis other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These amendments will not affect other Department regulations or the regulations of any other Commonwealth agency.

(27) Will any public hearings or informal meetings be scheduled? Please provide the dates, 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.

These amendments will not change any paperwork requirements.

(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 who use a chiropractor as their primary care provider.

(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 Department and the Department's Medical Advisory Board.

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

(Pursuant to Commonwealth Documents Law)

2007 FEB 11 11 2:33
INDEPENDENT REGULATORY
REVIEW COMMISSION

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. 18-398

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 Andrew C. Clark
JAN 30 2007
(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 75. Driver's License Examination

Title 75. Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article IV. Licensing

Chapter 75. Driver's License Examination

Notice of Final Rulemaking

Preamble

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Sections 1504(c), 1508.1 and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §§ 1504(c), 1508.1 and 6103), hereby amends Chapter 75 of the Department of Transportation Regulations, Title 67, by amending §§ 75.2 and 75.6, as set forth in Annex A to this Notice.

Purpose of Chapter

The purpose of Chapter 75 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 Proposed Amendments

The current provisions of Chapter 75 require that an applicant for a driver's license who has never been licensed in the 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 these amendments is to include chiropractors among the listed healthcare providers who can administer a physical examination for these 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 the 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 amendment make Department regulations consistent with current health care practices, the Vehicle Code and federal regulations.

Summary of Comments and Changes in Final Adopted Regulation

Public comment was received from the Pennsylvania Academy of Family Physicians (PAFP) and the Pennsylvania Medical Society (PMS) 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 the Vehicle Code. Both 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 the Chapter 75 merely conform the regulation to include the authorization of Chiropractors to conduct the required examinations which has already been authorized in the 2004 amendments to the Vehicle Code enacted by the General Assembly and signed by the Governor.

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

The sole comment of the Independent Regulatory Review Commission was that the definition of "chiropractor" in the Proposed Rulemaking differed slightly from the definition in the Vehicle Code. It was recommended that the definition be revised to conform verbatim to the definition in the statute or be replaced by a reference to the statutory definition. The recommended change to the definition has been made.

Persons and Entities Affected

These regulations affect chiropractors as well as individuals desiring 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

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 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), the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa. B. 6420, 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 IRRC and the public; no comments were received from 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 _____ and approved the final-form regulation.

Sunset Date

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

Contact Person

The contact person for this regulation is Anne P. Titler, Acting Manager, Driver Safety Division, Bureau of Driver Licensing, 4th Floor, Riverfront Office Center, 1101 S. Front Street, Harrisburg, Pennsylvania 17104, telephone number: (717) 783-4737.

Order

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 Pa. Code, are amended by the adoption of amendments to Chapter 75 as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this Order and Annex A hereto 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 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,
Secretary of Transportation

ANNEX A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 75. DRIVER'S LICENSE EXAMINATION

* * * * *

§ 75.2. Definitions.

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

* * * * *

Chiropractor—~~A practitioner of chiropractic licensed in this Commonwealth under the Chiropractic Practice Act, Act of December 16, 1986, P.L. 1646, as amended, 63 P.S. § 625.101 et seq. and the provisions of 49 Pa. Code, Chapter 5 AS~~
DEFINED IN SECTION 1508.1(B) OF THE VEHICLE CODE, 75 PA. C.S. § 1508.1(B).

* * * * *

§ 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, [or] a CRNP, [or] a physician assistant or a chiropractor. The licensed physician, [or] CRNP, [or] 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.

* * * * *



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

OFFICE OF CHIEF COUNSEL
GENERAL LAW DIVISION

POST OFFICE BOX 8212
HARRISBURG, PA 17105-8212
TELEPHONE: (717) 787-5299
FACSIMILE: (717) 772-2741



February 1, 2007

Kim Kaufman
Executive Director
14th Floor Harrisstown 2
333 Market Street
Harrisburg, PA 17101

**Re: Proposed Rulemaking
Regulation # 18-398, 67 Pa. Code Chapter 75 —
Driver's License Examination — Final Rulemaking**

Dear Mr. Kaufman:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for amendment to Chapter 75 of Department regulations which the Department of Transportation intends to adopt in accordance with the provisions of Section 204 of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1204.

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 blue ink, appearing to read "S. F. J. Martin", written over a horizontal line.

Stephen F. J. Martin
Regulatory Counsel

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: #18-398

2007 FEB -1 PM 2:38

SUBJECT: Driver's License Examination, 67 Pa. Code, Chapter 75

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

DATE	SIGNATURE	DESIGNATION
<u>2/1/07</u>	<u><i>Patricia E. Gilroy</i></u> for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION
<u>2-1-07</u>	<u><i>Mimi</i></u> for Minority Chair	
<u>2-1-07</u>	<u><i>Mark Butchardt</i></u> for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION
<u>02-01-07</u>	<u><i>Kimberly J. Harless</i></u> for Minority Chair	
<u>2-1-07</u>	<u><i>Cheryl Yohn</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	LEGISLATIVE REFERENCE BUREAU

Date: February 1, 2007