

Original: 2450

(A)



Paula J. McDermott  
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*Via Email and U.S. Mail*  
January 3, 2005

Rebecca L. Bickley, Director  
(rbickley@state.pa.us)  
Anne P. Titler, Acting Manager  
(atitler@state.pa.us)  
Bureau of Driver Licensing, 4th Floor  
Riverfront Office Center  
1101 South Front Street  
Harrisburg, PA 17104

PENNSYLVANIA

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LANCASTER

ALLENTOWN

NEW JERSEY

PRINCETON

**RE: Written Comment of Pennsylvania Chiropractic Association Re:  
Proposed Regulation #18-398 (#2450)**

Dear Ms. Bickley and Ms. Titler:

The Pennsylvania Chiropractic Association offers its wholehearted and enthusiastic support for the Proposed Rulemaking referenced above. It is clear that the Proposed Rulemaking will benefit that large portion of the public which is served by chiropractors as primary care providers. The Proposed Rulemaking plainly will conform the Pennsylvania provisions relating to applicants for driver's licenses and physical examinations to current healthcare practices and federal regulations.

Chiropractors are widely recognized and accepted in the healthcare and healthcare insurance industries as primary care providers permitted to furnish necessary patient care for health maintenance. Chiropractors, because of their required education and training, are qualified to provide physical examinations and, in fact, provide those examinations to countless individuals every year. The Proposed Rulemaking is a long overdue recognition of the status and role formed by chiropractors in the healthcare industry.

Very truly yours,

Paula J. McDermott  
PJM:dlh

cc: Gene Veno, Executive V.P., PCA  
Dr. Kate Rufalo  
Dr. David J. Cutich  
Dr. David Watto  
Dr. Richard Ross

RECEIVED  
2005 JAN -5 PM 1:56  
REGULATORY  
REVIEW COMMISSION



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**PENNSYLVANIA ACADEMY  
OF FAMILY PHYSICIANS**

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2005 FEB -4 PM 3: 23

INDEPENDENT REGULATORY  
REVIEW COMMISSION

January 3, 2005

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Rebecca L. Bickley, Director  
Driver Safety Division Licensing  
Bureau of Driver Licensing  
4<sup>th</sup> Floor, Riverfront Office Center  
1101 South Front Street  
Harrisburg, PA 17104

VIA US MAIL AND FACSIMILE 717-705-4415

Re: Proposed Rulemaking, Regulation #18-398 (#2450)

Dear Ms. Bickley:

On behalf of the over 4,700 members of the Pennsylvania Academy of Family Physicians (PAFP), I write to oppose to the Department of Transportation's (Department) proposed rulemaking that would permit chiropractors to perform physical medical examinations for first time applicants for drivers licensing in the Commonwealth.

The PAFP does not believe that chiropractors have the training or education to attest to the acts of medical diagnosis as listed on the Department's "Non-Commercial Learner's Permit Application" (DL-180). Specifically, the Department lists the following questions to the applicant:

1. Neurological disorders such as to prevent reasonable control of a motor vehicle. Y/N
2. Any cardiac or circulatory disorder including hypertension such as to prevent reasonable control of a motor vehicle? Y/N
3. Neuropsychiatric disorders such as to prevent reasonable control of a motor vehicle? Y/N
4. Conditions causing repeated lapses of consciousness, e.g., epilepsy, narcolepsy, hysteria, etc? Y/N
5. Alcoholism? Y/N
6. Narcotic addiction? Y/N
7. Uncontrolled diabetes? Y/N
8. Uncontrolled epilepsy? Y/N
9. Immobility or amputation of an appendage? Y/N
10. Does this person have any other condition that would prevent control of a motor vehicle? Y/N

Excluding perhaps the conditions listed in numbers nine and ten, none of the other conditions falls within the scope of practice of a chiropractor. To the contrary, chiropractors are not trained or licensed to diagnose or treat epilepsy, narcolepsy, hysteria, alcoholism, diabetes, hypertension, stroke, vascular insufficiency, or morbid obesity, all of which can prevent control of a motor vehicle. Further, the questions listed on the DL-180 seemed to be based on the Department's regulations, Title 67, Transportation, Chapter 83.

Page two  
Ms. Rebecca L. Bickley  
January 3, 2005

It is for these reasons that the PAFP asks the Department to withdraw this proposed rulemaking. Should you have any questions or concerns, please do not hesitate to contact me at contact me at 570-321-3156 or PAFP Governmental Affairs Director Andrew Sandusky at 717-564-5365.

Sincerely,



Timothy Heilmann, MD  
PAFP President

Cc: **The Honorable John R. McGinley, Jr., Esq. – Chair, Independent Regulatory Review Commission**  
**The Honorable Roger A. Madigan – Chair, Senate Transportation Committee**  
**The Honorable Robert M. Tomlinson – Chair, Senate Consumer Protection and Professional Licensure**  
**The Honorable Barry J. Stout – Democratic Chair, Senate Transportation Committee**  
**The Honorable Lisa M. Boscola – Democratic Chair, Senate Consumer Protection and Professional Licensure**  
**The Honorable Richard A. Geist – Chair, House Transportation Committee**  
**The Honorable Thomas P. Gannon – Chair, House Professional Licensure Committee**  
**The Honorable Keith R. McCall – Democratic Chair, House Transportation Committee**  
**The Honorable William W. Rieger – Democratic Chair, House Professional Licensure**

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# ACP

AMERICAN COLLEGE OF PHYSICIANS  
INTERNAL MEDICINE | *Doctors for Adults*  
PENNSYLVANIA CHAPTER

PENNSYLVANIA COLLEGE OF INTERNAL MEDICINE  
1489 BALTIMORE PIKE, SUITE 230  
SPRINGFIELD, PA 19064  
Phone: 610.543.6880 • 800.846.7746  
Fax: 610.543.6806 • Email: pcim.hq@verizon.net

January 3, 2005

VIA FACSIMILE and U.S. MAIL

Rebecca L. Bickley, Director  
Driver Safety Division Licensing  
Bureau of Driver Licensing  
4<sup>th</sup> Floor, Riverfront Office Center  
1101 South Front Street  
Harrisburg, PA 17104

RECEIVED  
2005 JAN 10 AM 9:17  
PENNSYLVANIA  
REVIEW COMMISSION

Re: Proposed Rulemaking, Regulation #18-398 (#2450)

Dear Ms. Bickley:

On behalf of the Pennsylvania College of Internal Medicine (PCIM), a membership organization of over 6,000 internists in PA, I write to oppose the Department of Transportation's (Department) proposed rulemaking which would allow chiropractors to perform the physical medical examination required for first-time applicants for a driver's license in the Commonwealth.

Under PA law as provided in 63 P.S. §625.102 (definitions section of the Chiropractic Practice Act), chiropractors are allowed to diagnose "... provided that such diagnosis is necessary to determine the nature and appropriateness of chiropractic treatment, the use of adjunctive procedures and treating misaligned or dislocated vertebrae or articulations and related conditions of the nervous system...."

By definition, the scope of practice for chiropractors is measurably limited to chiropractic treatment and related therapies as opposed to assessment and diagnoses of general medical conditions as is required by the Department's application "Non-Commercial Learner's Permit Application" (DL-180) for first-time driver's license applicants in the Commonwealth.

In addition, chiropractors are not qualified by training or education to serve as the health care provider to perform the required physical for a first-time applicant for a driver's license in Pennsylvania. The DL-180 poses questions about the applicant's neurological state; cardiac condition; neuropsychiatric condition; whether the applicant

Letter to Ms. Bickley  
January 3, 2005  
Page 2 of 3

may have epilepsy, narcolepsy or hysteria; uncontrolled diabetes; and any addictions to drugs or alcohol – none of which relate directly to chiropractic conditions.

Chiropractors are not trained or licensed to diagnose or treat epilepsy, narcolepsy, hysteria, alcoholism, diabetes, hypertension, stroke, vascular insufficiency, or morbid obesity, all of which can prevent control of a motor vehicle.

We call the Department's attention to *Commonwealth of Pennsylvania, Department of Transportation Hearing Board v. Pennsylvania Chiropractic Society*, 22Pa. Commw.483, 349 A.2d 509, 1976, in which the court held that the dismissal of the Society's petition for authorization of chiropractors to perform diagnostic examinations for operators' licenses was correct for two reasons: (1) chiropractors were not authorized by regulation of the Department; and (2) even if they were, the prior and current position of the court was that chiropractors are not authorized to perform general diagnostic examinations and are, therefore, unable to generally examine applicants for operator's licenses. We acknowledge that the Department is attempting to address the first objection with this proposed regulation. However, although the Chiropractic Practice Act has been amended since this decision, it has not, in our opinion, been revised in any manner that would allow a different conclusion to be drawn regarding the examination of applicants.

The fact that the Department asserts that chiropractors are authorized by federal regulations to perform this medical examination does not support any argument for expansion of the scope of practice in Pennsylvania nor eliminate the potential for danger that could result from an improper medical examination of a prospective driver.

We would note further that the other authorized persons who may perform such an examination, namely, Certified Registered Nurse Practitioners and Physician's Assistants, are qualified to provide such an examination due to the supervision by physicians; however, no such oversight exists with respect to chiropractors.

The current public policy position of the Department is based on sound, general medical reasoning rather than the limited diagnostic assessment authorized for chiropractors. Please allow this policy to remain in force and provide the opportunity for the appropriate health care providers – licensed physicians and certified registered nurse practitioners or physician's assistants working in collaboration with licensed physicians – to provide this necessary service of assessment and diagnosis of a first-time driver's license applicant's overall state of physical and mental health.

Letter to Ms. Bickley  
January 3, 2005  
Page 3 of 3

In the interest of protecting the health and safety of Pennsylvania's citizens, PCIM strongly requests that the Department withdraw this proposed rulemaking. If you have any questions or concerns, please contact either me (412-578-6928), John Derrickson, PCIM's Executive Director (800-846-7746), or Beth Zampogna at Capital Associates, PCIM's public affairs consultants (717-234-5350).

Sincerely,

*Herbert Diamond, MD*

Herbert Diamond, MD, FACP  
President, PCIM Services

cc: ✓ The Honorable John R. McGinley, Jr., Esq. – Chair, Independent Regulatory Review Commission  
The Honorable Roger A. Madigan – Chair, Senate Transportation Committee  
The Honorable Barry J. Stout – Democratic Chair, Senate Transportation Committee  
The Honorable Robert M. Tomlinson – Chair, Senate Consumer Protection and Professional Licensure  
The Honorable Lisa M. Boscola – Democratic Chair, Senate Consumer Protection and Professional Licensure  
The Honorable Richard A. Geist – Chair, House Transportation Committee  
The Honorable Keith R. McCall – Democratic Chair, House Transportation Committee  
The Honorable Thomas P. Gannon – Chair, House Professional Licensure Committee  
The Honorable William W. Rieger – Democratic Chair, House Professional Licensure  
PCIM Governors  
PCIM Health and Public Policy Committee  
Beth Zampogna, Capital Associates

(10)

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# Pennsylvania MEDICAL SOCIETY®

December 30, 2004

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*Executive Vice President*

Ms. Rebecca L. Bickley, Director  
Bureau of Driver Licensing  
4<sup>th</sup> Floor, Riverfront Office Center  
1101 S. Front Street  
Harrisburg, Pennsylvania 17104

RECEIVED  
2005 FEB -4 PM 3:23  
APPELLANT REVIEW COMMISSION

Re: Pennsylvania Bulletin, Driver's License Examination; Proposed Rulemaking

Dear Ms. Bickley:

I am writing to express concern on behalf of the Pennsylvania Medical Society over the Department of Transportation's proposed rulemaking permitting chiropractors to administer a physical examination to new driver applicants. The recently enacted statute that added chiropractors to those who may perform physical examinations for driver's licenses limited chiropractors to act within their scope of practice. Chiropractic practice is limited to treatment of the vertebral column and the neuro-musculo-skeletal system.

Chiropractors are not qualified by training and experience to medically evaluate the new driver applicant for the majority of conditions required to be reported to the Department as part of the permit application for driver licensing. At best, they could report gross signs or symptoms or responses to questions provided by the driver applicant. Almost every condition or disorder requires the taking of a complete history, performance of specific diagnostic studies and laboratory tests, and the rendering of a definitive diagnosis. This is especially true of neurological and neuro-psychiatric disorders, as well as most physical disorders.

The proposed rulemaking cites that this recommendation makes the Department's regulations consistent with Federal regulations. The Medical Society believes that the proposed rulemaking would exceed the current Chiropractic Practice Act. Further, the Society is unaware of applicant drivers having any difficulty obtaining the medical examination for licensure from a licensed medical doctor or doctor of osteopathy.

777 East Park Drive

PO Box 8820

Harrisburg, PA 17105-8820

Tel: 717-558-7750

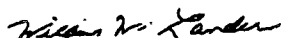
Fax: 717-558-7840

E-Mail: [info@pamedsac.org](mailto:info@pamedsac.org)

[www.pamedsac.org](http://www.pamedsac.org)

The Medical Society therefore requests that the Department of Transportation withdraw this proposed rulemaking. We request that the proposed rule be re-written to limit conditions that the chiropractor may report to those within the current scope of chiropractic practice.

Sincerely,



William W. Lander, MD  
President

Cc: Chairs, Senate Consumer Protection and Professional Licensure Committee  
Chairs, Senate Transportation Committee  
Chairs, House Professional Licensure Committee  
Chairs, House Transportation Committee  
Chair, Independent Regulatory Review Commission



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**Pennsylvania  
Psychiatric Society**

The Pennsylvania  
District Branch of the  
American Psychiatric Association

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December 22, 2004

2005 FEB -4 PM 3: 23

Rebecca L. Bickley, Director  
Bureau of Driver Licensing  
4<sup>th</sup> Floor, Riverfront Office Center  
1101 S. Front St.  
Harrisburg, PA 17104

INDEPENDENT REGULATORY  
REVIEW COMMISSION

Dear Ms. Bickley:

I am writing on behalf of the Pennsylvania Psychiatric Society, representing nearly 1800 physicians specializing in the practice of psychiatry, to comment on a Proposed Rulemaking published Dec. 3, 2004, in the Pennsylvania Bulletin. The proposal relates to the addition of chiropractors to those who may administer physical examinations for new driver applications.

Recognizing that Pennsylvania recently enacted a statute adding chiropractors to those who may legally perform physical examinations for drivers' licenses, we would also note that the enabling legislation limits this power to chiropractors "acting within the scope of practice contained in the . . . Chiropractic Practice Act." The proposed rulemaking is inconsistent with this requirement.

The definition of "chiropractor" in the practice act is limited generally to conditions and manipulations of the vertebral column and the neuro-musculo-skeletal system (see the definition of "chiropractor" at 63. P.S. § 625.102). Diagnostic authority is similarly limited, being restricted to that which "is necessary to determine the nature and appropriateness of chiropractic treatment." Chiropractors are not educated or licensed to perform general physical exams that would establish the absence or presence of a multitude of conditions that could impact an individual's ability to drive safely, such as epilepsy, cardiac arrhythmia, or the need for medications that can impair consciousness or attention.

Second, although the proposed changes to the regulation fall under a section titled "Physical Examinations," the paragraph concludes with a reference to using a special form for "alleged mental disability." Thus we are particularly concerned that the regulation appears to give chiropractors the ability to assess mental disability, a task for which they are completely unqualified by virtue of training or licensure. The definition of "chiropractor" in the Chiropractic Practice Act is appropriately void of language related in any way to the diagnosis or treatment of psychiatric illness or mental disability.

We therefore recommend (1) that the proposed rule be re-written to appropriately limit the physical conditions to whose presence, absence, or severity a chiropractor may attest; and (2) that the rule specifically prohibit a chiropractor from assessing or making a statement about mental conditions that would affect a person's ability to safely operate a motor vehicle.

Sincerely yours,

Kenneth M. Cerna, MD  
Co-Chair, Government Relations

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E-mail glehman@pamedsoc.org

www.papsych.org

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2005 FEB -1 AM 9: 03

INDEPENDENT REGULATORY REVIEW COMMISSION

Paula J. McDermott  
Direct Dial: 717-612-6012  
Fax Number: 717-731-1985  
pmcdermott@postschell.com

January 27, 2005

**VIA CERTIFIED MAIL**

John H. Jewett  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

**RE: Proposed Regulation No. 18-398 (# 2450)  
Department of Transportation, Driver's License Examination**

PENNSYLVANIA

Dear Mr. Jewett:

PHILADELPHIA

I wish to thank you on behalf of the Pennsylvania Chiropractors Association for an opportunity to respond to comments submitted by the Pennsylvania Medical Society, the Pennsylvania Academy of Family Physicians, and the Pennsylvania College of Internal Medicine in opposition to the proposed rule making supported by the PCA.

PITTSBURGH

HARRISBURG

LANCASTER

The gist of the comments of all three physicians' entities seems to be a belief that chiropractors are not qualified to evaluate medically a new driver applicant for the conditions required to be reported to the Department of Transportation as part of the permit application for drivers' licensing. 63 P.S. §625.102 defines chiropractic as follows:

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\* \* \*

"Chiropractic." A branch of the healing arts dealing with the relationship between the articulations of the vertebral column, as well as other articulations, and the neuromusculo-skeletal system and the role of these relationships in the restoration, and maintenance of health. The term shall include systems of locating misaligned or displaced vertebrae of the human spine and other articulations; the examination preparatory to the adjustment or manipulation of such misaligned or displaced vertebrae and other articulations; the adjustment or manipulation of such misaligned or displaced vertebrae and other articulations; the furnishing of necessary patient care for the restoration and maintenance of health; and the use of board-approved scientific instruments of analysis, including X-ray. **The term shall also include diagnosis**, provided that such diagnosis is necessary to determine the nature and appropriateness of chiropractic treatment; the use of adjunctive procedures in treating misaligned or dislocated vertebrae or

John H. Jewett  
January 27, 2005  
Page 2

articulations and related conditions of the nervous system, provided that, after January 1, 1988, the licensee must be certified in accordance with this act to use adjunctive procedures; and nutritional counseling, provided that nothing herein shall be construed to require licensure as a chiropractor in order to engage in nutritional counseling. The term shall not include the practice of obstetrics or gynecology, the reduction of fractures or major dislocations, or the use of drugs or surgery. (Emphasis supplied).

As the language of the statute quoted above makes plain, chiropractic is very broadly defined. That definition includes diagnosis provided that the diagnosis is necessary to determine the nature and appropriateness of chiropractic treatment. The licensure and continuing education requirements for chiropractors require two years of college or sixty credit hours, as well as graduation from an approved college of chiropractic, with the successful completion of not less than the minimum number of hours of classroom and laboratory instruction. The minimum shall be at least 4000 hours. 63 P.S. §625.501. While chiropractors are expressly prohibited from practicing obstetrics or gynecology, the reduction of fractures or major dislocation or the use of drugs or surgery, they are qualified by training and experience to diagnose the need for those specialties and routinely engage in making referrals to other qualified medical personnel. It should be noted that this process is little different from referral by medical doctors to specialists for specific conditions.

The Pennsylvania Medical Society focuses upon neurological and neuropsychiatric disorder as well as most physical disorders in its submission as to the alleged limitations of chiropractors to diagnose. It is respectfully suggested that any primary care health care professional, medical doctor, osteopathic physician or chiropractor once he or she has determined that there is serious neurological or neuropsychiatric involvement, as well as any type of serious physical disorder which will prevent someone from driving, would refer that individual to a competent specialist.

A chiropractor's statutorily granted ability to diagnose as well as his experience in training, certainly permits him to identify neurological and neuropsychiatric disorders, as well as most physical disorders, and make appropriate recommendations to specialists for treatment of the same. It should be noted that the requirements of the physical examination from PennDOT entail a written questionnaire which is verbally answered by the patient and signed by a doctor. Unless a problem is identified by the patient, the process does not involve taking of a complete history, performance of specific diagnostic studies and laboratory tests or the rendering of a definitive diagnosis, as suggested by the Pennsylvania Medical Society. Indeed, most such dialogs to fill out the written questionnaire are handled in the receptionist's office with a short question and answer process.

John H. Jewett  
January 27, 2005  
Page 3

Similarly, the objections of the Pennsylvania Academy of Family Physicians reduce themselves to much the same analysis as enumerated above. A chiropractor is as qualified as any other medical professional to pose the questions asked of a driving applicant. While chiropractors are not trained or licensed to treat the conditions enumerated, they are certainly licensed to diagnose them and make appropriate referrals to specialist physicians.

Likewise, the American College of Physicians fails to distinguish between diagnosis and treatment. The questionnaire which is posed to an applicant for a drivers' license is of the most basic nature. A chiropractor, in assisting an applicant in answering the questionnaire will obtain substantially the same information as a medical doctor or certified registered nurse practitioner/physician's assistant, and will make appropriate referrals if the diagnosis discloses conditions which would render the applicant unsuitable to drive.

As indicated previously, chiropractors are widely recognized and accepted in the health care insurance industry as primary care providers permitted to furnish the necessary patient care for health maintenance. Chiropractors, because of their required training and education, are qualified to provide physical examinations and in fact, provide those examinations to countless individuals every year. The proposed rule will conform the Pennsylvania provisions relating to applicants for drivers' licenses and physical examinations to current health care practices and federal regulations.

For all the foregoing reasons, the Pennsylvania Chiropractic Association offers its enthusiastic support to the proposed rule making as of enormous benefit to the citizenry of the Commonwealth of Pennsylvania.

Very truly yours,



Paula J. McDermott

PJM:djs

Cc: Gene Venno, PCA

Original: 2450

**IRRC**

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**From:** edward j. krzykwa [ejnkrzykwa@yahoo.com]  
**Sent:** Friday, December 10, 2004 4:38 PM  
**To:** IRRC  
**Subject:** vol 34 #49

great news that a doctor of chiropractic can perform what they are taught in school, just as a doctor of osteopathy or medicine was trained to do. please continue to erase the professional discrimination that doctors of chiropractic, and their patients, have endured for years.  
thank you.  
edward j. krzykwa, dc

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[http://info.mail.yahoo.com/mail\\_250](http://info.mail.yahoo.com/mail_250)