

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b> RECEIVED 2005 MAY 13 AM 10:41 REVIEW COMMISSION	
(1) Agency Transportation			
(2) I.D. Number (Governor's Office Use) #18-402		IRRC Number: 2482	
(3) Short Title School Bus Drivers			
(4) PA Code Cite 67 Pa. Code, Chapter 71		(5) Agency Contacts & Telephone Numbers Primary Contact: Rebecca L. Bickley (717) 787-4701 Secondary Contact: Chris A. Miller (717) 787-6453	
(6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input 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 the physical examination required for school bus drivers. Pennsylvania law requires a school bus driver to have a physical examination every year.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Authority for this regulation is contained in § 1509 of the Vehicle Code, Act of June 17, 1976, P.L. 162, as amended (75 Pa.C.S. § 1509).			
(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.			

Act 76 of 2004 amended 75 Pa.C.S. § 1508.1 requiring the Department to promulgate regulations to authorize specific classes of licensed practitioners of the healing arts to conduct examinations required for the issuance of a driver's license and a school bus driver endorsement.

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

Pennsylvania law requires a school bus driver to have a physical examination. According to existing regulations the only health care providers who can perform that physical are a licensed physician, a certified registered nurse practitioner or a physician's assistant. Chiropractors are currently considered by health insurance companies to be portal of care practitioners. This means they are regarded as primary care physicians, permitted to furnish necessary patient care for health maintenance. Chiropractors are also allowed, by federal regulation, to conduct the medical examinations for commercial drivers required every two years by the Federal Highway Administration under Motor Carrier Safety regulations. Since the exclusion of chiropractors from the list of health care providers is inconsistent with current health care practices and federal regulations, chiropractors should be added to Pa. Code Title 67, Chapter 71 as one of the providers who can give the physical examination for the school bus driver endorsement.

(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 school bus driver physical examination.

(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 physician will be able to get the examination from that physician. Chiropractors may benefit by being able to give the examination. 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 this amendment 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.)

It is not known precisely how many individuals will be required to comply. In addition to chiropractors, school districts and independent contractors operating school buses or school bus

services will be required to comply with this regulation. Pennsylvania has 501 public school districts and over 2,000 private schools.

(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 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.

(20b) Provide the three year expenditure history for programs affected by the regulation.

Program	FY-3	FY-2	FY-1	Current FY
Appropriation 183	\$ 119,141,000	\$ 118,299,000	\$ 118,558,000	\$126,787,000

(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 change in the health care practitioners who could give 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 physician.

(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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<p><b>FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</b></p> <p>(Pursuant to Commonwealth Documents Law)</p> <p># 2482</p>	<p>2005 MAY 13 11:10:41 RECEIVED LEGISLATIVE REFERENCE BUREAU</p> <p><b>DO NOT WRITE IN THIS SPACE</b></p>
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<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p><i>[Signature]</i> By: _____ (Deputy Attorney General) MAY 10 2005 _____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy of below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p style="text-align: center;"><b><u>Department of Transportation</u></b> (Agency)</p> <p>DOCUMENT/FISCAL NOTE NO # <u>18-402</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <i>[Signature]</i> Secretary of Transportation</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><i>[Signature]</i> By: _____ 4.18.05 _____ (Date of Approval) <b>EXECUTIVE</b> (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike Inapplicable Title)</p> <p><input type="checkbox"/> Check if applicable. No attorney General Approval or Objection within 30 days after submission.</p>
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**NOTICE OF PROPOSED RULEMAKING**  
**DEPARTMENT OF TRANSPORTATION**  
**Title 67. Transportation**  
**Part I. Department of Transportation**  
**Subpart A. Vehicle Code Provisions**  
**Article IV. Licensing**  
**Chapter 71. School Bus Drivers**

**Title 67. Transportation**

**Part I. Department of Transportation**

**Subpart A. Vehicle Code Provisions**

**Article IV. Licensing**

**Chapter 71. School Bus Drivers**

**Notice of Proposed Rulemaking**

**Preamble**

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Section 1509 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §1509, proposes to amend Chapter 71 of the Department of Transportation Regulations, Title 67, by amending §§ 71.2 and 71.3, as set forth in Annex A to this Notice.

***Purpose of Chapter***

The purpose of Chapter 71 is to define more fully the requirements of 75 Pa.C.S. § 1509 by listing minimum medical requirements for school bus drivers.

***Purpose of the Proposed Amendments***

The purpose of these amendments to Chapter 71 is to allow chiropractors to administer the physical examination required for school bus drivers. Pennsylvania law requires a school bus driver to have a physical examination every year. According to Department regulations the only health care providers who can perform that physical are licensed physicians, certified registered nurse practitioners or a physician's assistants.



The Pennsylvania Chiropractic Association has requested chiropractors also be allowed to conduct physicals as part of the process of obtaining a driver's license.

Chiropractors are currently considered by health insurance companies to be portal of care practitioners. This means they are regarded as primary care physicians, permitted to furnish necessary patient care for health maintenance. They are also allowed, by federal regulation, to conduct the medical examinations for commercial drivers required every two years by the Federal Highway Administration under Motor Carrier Safety regulations. Since the exclusion of chiropractors from the Department's list of health care providers is inconsistent with current health care practices and federal regulations, chiropractors should be added to Pa. Code Title 67, Chapter 71 as one of the providers who can give the school bus driver's physical examination.

#### ***Summary of Significant Amendments***

Section 71.2 (Definitions) has been amended to add the term "Doctor of Chiropractic Medicine." This definition reflects the definition of chiropractic specialty used by the State Board of Licensing.

Section 71.3 has been amended to add the term Doctor of Chiropractic Medicine to the list of providers authorized to perform the school bus driver's physical examination.

#### ***Persons and Entities Affected***

These regulations affect all licensed school bus drivers or persons interested in becoming a school bus driver and chiropractors.

### ***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 allowing applicants for a learner's permit to get their physical examination from their primary care physician.

### ***Regulatory Review***

Under Section 5(a) of the Regulatory Review Act, Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. 745.5(a), the agency submitted a copy of this proposed regulation on May 13, 2005 to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting these regulations, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specified detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of comments, recommendations or objections.

### ***Sunset Provisions***

The Department of Transportation will make these regulations effective upon publication in final form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. 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. 1.01, et seq.). The Department, however, will continue to closely monitor these regulations for their effectiveness.

### ***Public Comments***

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the regulations to Rebecca L. Bickley, Director, Bureau of Driver Licensing, 1101 South Front Street, Harrisburg, Pennsylvania 17104 within thirty days of the publication of this notice in the *Pennsylvania Bulletin*.

### ***Contact Person***

The contact person for technical questions about the proposed amendments to the regulations is Chris A. Miller, Manager, Special Driver Programs, Department of Transportation, Bureau of Driver Licensing, 1101 S. Front Street, 3rd floor, Harrisburg, Pennsylvania 17106, telephone number: (717) 787-6453.

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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 71. School Bus Drivers

§ 71.2. Definitions.

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

\* \* \* \* \*

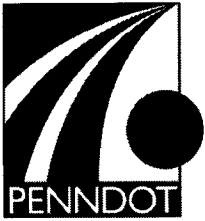
Doctor of Chiropractic Medicine—a person licensed in this Commonwealth who has achieved certification or diplomate status through a program by an approved chiropractic college that has established valid standards acceptable to the Pennsylvania State Board of Licensing for the achievement of certification or diplomate status and is able to diagnose and treat patients whose health problems are associated with the body's muscular, nervous, and skeletal systems, especially the spine.

\* \* \* \* \*

§ 71.3. Physical examination.

(a) *General rule.* A physical examination shall be given by a school transportation physician, a Doctor of Chiropractic Medicine, a CRNP or a physician assistant:

\* \* \* \* \*



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



May 13, 2005

Robert E. Nyce  
Executive Director  
14<sup>th</sup> Floor Harrisstown 2  
333 Market Street  
Harrisburg, PA 17101

**Re: Proposed Rulemaking  
Regulation # 18-402, 67 Pa. Code Chapter 71 —  
School Bus Drivers**

Dear Mr. Nyce:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for amendment to Chapter 71 of Department regulations which the Department of Transportation intends to adopt following proposed rulemaking 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 and to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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", 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: #18-402

SUBJECT: 67 Pa. Code Chapter 71 — School Bus Drivers

AGENCY: Department of Transportation

**TYPE OF REGULATION**

# 2482

- X Proposed Regulation
- 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

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 REGULATORY COMMISSION

**FILING OF REGULATION**

DATE                      SIGNATURE                      DESIGNATION

5/13/05                      *Patricia E. Gilroy*                      SENATE COMMITTEE ON  
for Majority Chair                      TRANSPORTATION

5/13/05                      *[Signature]*  
for Minority Chair

5/13/05                      *Shelly Weaner*                      HOUSE COMMITTEE ON  
for Majority Chair                      TRANSPORTATION

5/13                      *Robert H. Wegert*  
for Minority Chair

5/13/05                      *Stephen F. Hoffman*                      INDEPENDENT REGULATORY  
REVIEW COMMISSION

5-13-05                      *Marya Garas*                      LEGISLATIVE REFERENCE  
BUREAU

Date: May 13, 2005