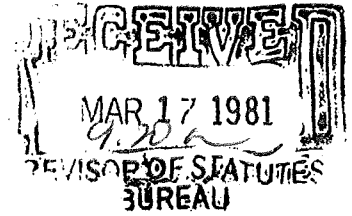


TRANS 108
CERTIFICATE



STATE OF WISCONSIN)
DEPARTMENT OF TRANSPORTATION) SS


TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the department, do hereby certify that the annexed rule TRANS 108, relating to Driver Licensing of Persons Who Have Experienced Episodes of Altered Consciousness or Loss of Body Control, Including Epilepsy, was duly approved and adopted by this department in accordance with s. 227.026(1), Stats.

I further certify that the annexed copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation in the City of Madison, Wisconsin, this 12th day of March, 1981.

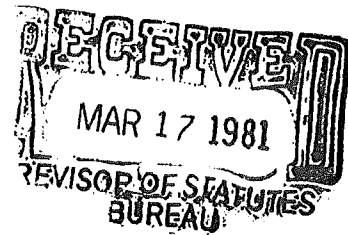


Lowell B. Jackson
Secretary

6-1-81

OFFICE OF SECRETARY

In the Matter of the Proposed :
 Adoption of Chapter TRANS 108, :
 Wis. Admin. Code, Relating to :
 Driver Licensing of Persons : ORDER ADOPTING
 Who Have Experienced Episodes : RULES
 of Altered Consciousness or :
 Loss of Body Control, Including :
 Epilepsy :



Analysis of Rule Prepared by the
Department of Transportation

This proposal creates chapter TRANS 108 to codify as a rule the department's driver licensing policies and procedures relating to persons who have experienced episodes involving altered consciousness or loss of body control, including epilepsy. The rules are authorized by ss.343.09, 343.13 and 343.16(2), Stats. Under the statutes, the department has the duty to evaluate (in terms of public safety) the driver licensing eligibility of persons who have experienced such episodes.

Briefly, the rule provides:

(1) When the department has reason to believe that an episode has occurred, either by a statement of the applicant or licensee or by any other means, it will require the person to submit a medical report. The rule prescribes the content of the reports in terms of information relevant in making licensing decisions. The rule also specifies periodic medical reporting requirements.

(2) Upon receipt of the medical report, the department will take licensing action, unless additional medical information or a medical review board appearance is necessary to make the licensing decision. Unless the evidence clearly shows that the episode either did not occur, was due to causes wholly unrelated to a medical condition or was related to a specifically identifiable medical condition not involving a neurological disorder, the person's case will be dealt with under the terms of this rule. In which case:

(3) If the episode occurred within the previous 6 months, the license will be denied or cancelled unless certain specified conditions are met.

(4) If the episode occurred between 6-12 months previously, licensing will generally be restricted.

(5) When at least 24 months have passed since the last episode, the licenses will be unrestricted unless public safety requires otherwise.

(6) Conditions when licensing action without a medical report may be necessary are identified.

(7) The rule also prescribes the conditions under which persons may be eligible for limited and unrestricted chauffeur licenses. By federal rule (Title 49-Transportation, Chapter III Federal Highway Admin., Part 391, Subpart E), the chauffeur licenses must be limited to operations in intrastate commerce. No school bus operator's license can be issued to persons who have experienced episodes of altered consciousness.

(8) Persons whose licenses have been cancelled or denied may request an appearance before a medical review board. Licensing decisions made by the department on the basis of medical review board recommendations are subject to judicial review. The rule requires licensing decisions to be made and sent within 10 working days after the person's review board appearance. Questions involving only licensing restrictions may not be brought to the board, but are directly reviewable by the courts under ch. 227, Stats.

The proposed rule contains several new policies that are highlighted below:

(1) Specific circumstances when licensing will be considered for persons having an episode within the previous 6-month period are outlined.

(2) Provisions are included for administrative review and licensing action prior to a medical review board appearance.

(3) For persons who have experienced isolated, nonrecurring episodes, no licensing action is taken, and after 2 years, annual medical reports will not be required.

(4) A person whose episode is either shown not to have occurred or was the result of behavior or causes wholly unrelated to a medical condition may have his or her license reinstated without payment of the statutory \$20 reinstatement fee, because in these situations there was no basis for the cancelation.

Fiscal Estimate

The administrative review procedures in the proposed rule will result in a reduction of the number of persons who must appear

before the medical review boards before licensure. This should reduce the number of boards required and the corresponding staffing requirement. However, since 1976, there has been approximately a 10% annual increase in the number of persons appearing before the boards. Thus, the continued increase in persons desiring a board appearance as well as increasing numbers of boards for other medical problems, will offset the anticipated reduction in board associated workload resulting from this proposed rule.

Revision of medical report forms and form letters will involve an estimated one time cost of \$550 for redesign and printing and disposal of old stock. Although the rule does not require an information pamphlet be developed and distributed, the department has made a commitment to prepare one based on the provisions of the rule. The pamphlet is expected to involve an initial cost of \$200 for design and printing of 10,000 pamphlets. This estimate does not include postage costs, as it is anticipated the pamphlets can be either included with other mailings or distributed at the DMV counters. These costs will be absorbed by the department.

The decrease in revenue resulting from waiver of reinstatement fees in the very limited circumstances recited in the rule will be negligible.

The rule has no fiscal effect on local units of government.

FORMS. All forms and letters used for this program will be revised to conform to the provisions of the rule when it becomes effective. In addition, an informational pamphlet (draft copy attached) will be prepared and distributed.

A copy of the proposed rule may be obtained upon request from the Wisconsin Department of Transportation, Division of Motor Vehicles, Room 255, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702, (608) 266-2233.

OFFICE OF SECRETARY

In the Matter of the Proposed	:	
Adoption of Chapter TRANS 108,	:	
Wis. Admin. Code, Relating to	:	TEXT OF
Driver Licensing of Persons	:	PROPOSED
Who Have Experienced Episodes	:	RULE
of Altered Consciousness or	:	
Loss of Body Control, Including	:	
Epilepsy	:	

Pursuant to authority vested in the Department of Transportation by ss. 110.06 and 227.014, Stats., the Department of Transportation hereby proposes to adopt administrative rules interpreting and implementing ss. 343.09, 343.13 and 343.16(2), Stats., relating to driver licensing of persons who have experienced episodes of altered consciousness or loss of body control, including epilepsy, as follows:

Chapter TRANS 108 of the Wisconsin Administrative Code is adopted to read:

CHAPTER TRANS 108

DRIVER LICENSING OF PERSONS WHO HAVE EXPERIENCED
 EPISODES OF ALTERED CONSCIOUSNESS OR LOSS
 OF BODY CONTROL.

TRANS 108.01 Purpose and scope. (1) The purpose of this chapter is to establish the department's administrative interpretation of ss. 343.09, 343.13 and 343.16(2), Stats., in relation to the issuance of motor vehicle operator licenses to persons who have experienced episodes involving altered consciousness, or convulsive disorders resulting in altered consciousness or loss of body control, including but not limited to epilepsy.

(2) Episodes of altered consciousness related to a specifically identifiable medical condition that is not a neurological disorder, including but not limited to, metabolic diseases such as diabetes,

cardiovascular diseases, and alcohol and other drug abuse will be reviewed under criteria outside this chapter. Loss of body control resulting from other neurological disorders, including but not limited to cerebral palsy, multiple sclerosis and muscular dystrophy, will also be reviewed under criteria outside this chapter.

(3) This chapter applies to all persons applying for or holding any license to operate a motor vehicle and to actions of the department in carrying out the driver licensing responsibilities under ch. 343, Stats.

TRANS 108.02 Definitions. In this chapter:

(1) "Department" means the Wisconsin department of transportation.

(2) "Episode" means any incident or segment of time involving altered consciousness or loss of body control.

(3) "Licensing action" means any action by the department involving the denial, cancellation, restriction, or issuance of a license under this chapter.

(4) "Medical review board" or "review board" means a medical review board established under ss. 343.09(4) and 343.16(2), Stats.

(5) "Medical condition" means any condition affecting a person's health for which a person is receiving medical treatment, or for which medical treatment is usually prescribed.

(6) "Altered consciousness" means a state of awareness characterized by loss, distortion, or unresponsiveness to the impressions made by the senses.

(7) "Loss of body control" means involuntary movements of the body characterized by muscle spasms or muscle rigidity or loss of muscle tone or muscle movement.

(8) "Neurological disorder" means a disorder of the body's nervous system characterized by a disturbance of sensory, motor or coordinating functions.

TRANS 108.03 Information to be considered in licensing actions.

(1) The medical review boards when making recommendations, and the department when taking licensing action, shall consider the following information:

(a) Information on alteration of consciousness or loss of body control (blackout, seizure, spell, attack, episode, etc.):

1. Age at onset.
2. Type of episode.
3. Frequency.
4. Dates, times, and circumstances of episodes, especially last three.
5. Aftereffects (e.g. paralysis, impaired movement, etc.).
6. Duration.
7. Cause.
8. Aura; and

(b) Related medical information:

1. Electroencephalograph findings.
2. X-ray findings.
3. Other laboratory findings.
4. History of hospitalization.
5. Side effects of medication(s).
6. Current medication(s)--dosage, serum levels, etc.; and

(c) Applicant knowledge:

1. Knowledge of stress factors which contribute to lapse

of consciousness--including insufficient sleep, alcohol and tension.

2. Knowledge of anticonvulsant medications and effects.
3. System for taking medication.
4. Applicant opinion regarding cause of episode; and

(d) Physician information:

1. Physician recommendations.
2. History of physician care.
3. Physician discussions with applicant of control of

episodes.

4. Diagnosis by physicians; and

(e) Medical review board recommendation.

(f) Applicant driving needs:

1. Current occupation.
2. Basic driving needs, including but not limited to, the

distance from the applicant's home to that person's doctor, place of employment, shopping districts, or other necessary locations.

3. Working hours; and

(g) Reports of driver condition or behavior; and

(h) Driver record. Traffic convictions for driving while intoxicated, inattentive driving, reckless driving, failure to have vehicle under control, failure to yield right of way or other convictions where there is evidence they were caused by an episode. Accidents that have been caused by an episode.

(2) The types of information described in par. (1)(a) through (d) shall be included in medical reports required for the administration of licensing under this chapter. The forms shall be furnished to the applicant, licensee or the examining physicians free of charge.

(3) Persons may be required to appear before a medical review board or obtain additional medical information if the department determines the information contained in the medical report is not adequate to make the licensing decision.

TRANS 108.04 Medical reports; filing requirements. (1) Persons who have been medically diagnosed as having epilepsy shall file medical reports with the department as required by s. 343.09, Stats.

(2) Persons who have experienced only a single, nonrecurring episode and meet the requirements of par. TRANS 108.06(1)(c), are required to file medical reports every 6 months for 2 years since their single episode.

(3) Persons who are not subject to sub. (1) or (2) shall file medical reports every 6 months for two years and annual medical reports thereafter until 5 years have elapsed since their last episode.

(4) In addition to the reporting requirements in subs. (1) to (3), the department may require persons to file medical reports at other times when there is reason to believe medical information on file with the department is not current or complete.

(5) All physician medical reports must be based on an examination by the physician within the previous three months.

(6) Medical reports required under this section must be submitted within 30 days from license application, or department request, unless an extension has been granted by the department.

TRANS 108.05 Episode reports. Whenever the department learns that an applicant or a licensee may have experienced an episode, it shall require the person to file a medical report which has

been filled out by a physician. The department shall review the medical report for the purpose of making a determination that:

(1) The person is diagnosed by the reporting physician as having epilepsy, and the person's licensing eligibility will be reviewed under this chapter; or

(2) The episode was the result of an identifiable neurologically related disorder, but an affirmative diagnosis of epilepsy has not been made, and the person's licensing eligibility will be reviewed under this chapter; or

(3) No specific cause of the episode can be identified, and the person's licensing eligibility will be reviewed under this chapter; or

(4) The episode was the result either of an identifiable medical condition that is not related to a neurological disorder or has been diagnosed as symptomatic of cerebral palsy, multiple sclerosis, muscular dystrophy or a similar disorder, and the person's licensing eligibility will be reviewed under criteria outside this chapter; or

(5) The episode did not occur or was the result of behavior or circumstances wholly unrelated to any medical condition, and no basis for review exists.

TRANS 108.06 Licensing decisions. After the initial screening of the medical reports or physician information under s. TRANS 108.05, the department shall take licensing action in accordance with the criteria prescribed in this chapter.

(1) EPISODE WITHIN PREVIOUS 6 MONTHS. Any person who has experienced an episode within the 6 month period immediately

preceding the department's licensing action shall not be permitted to hold a license unless it is found that:

(a) The episode was due to a deliberate change in or withdrawal of, anticonvulsant medication ordered by the person's physician; and

1. At least 30 days have elapsed since the use of the anticonvulsant medication used to assure control has been resumed; and

2. The person's anticonvulsant blood serum levels are within an established therapeutic range as indicated in a laboratory report; and

3. The person's examining physician certifies to a reasonable degree of medical certainty that episode control has been established; or

(b) Circumstances beyond the person's control prevented obtaining or administering the prescribed medication and the conditions prescribed in par. (a) 1 to 3 are satisfied; or

(c) The person's examining physician indicates that the episode was an isolated occurrence; and

1. The cause of the episode is identified; and

2. The physician believes that another episode is unlikely to occur; and

3. The physician is not treating the person for the cause of the episode; and

4. There is no previous history of any other episode.

(d) Licenses issued under par. (a) and (b) shall be restricted. Licenses issued under par. (c) shall be unrestricted.

(2) EPISODE WITHIN PREVIOUS 6 TO 24 MONTHS. Any person who has experienced an episode within the 6 to 24 month period immediately preceding the department's licensing action shall be permitted to hold a license, which will usually be restricted, if the department determines from the criteria in s. TRANS 108.03 that the person's condition is under control and licensing does not present any significant risk to the safety or welfare of the person or the general public.

(3) EPISODE-FREE FOR MORE THAN 24 MONTHS. Any person who has last experienced an episode at least 24 months preceding the department's licensing action shall be permitted to hold a license, which will usually be unrestricted, if the department determines from the criteria in s. TRANS 108.03 that the person's condition is under control and licensing does not present any significant risk to the safety or welfare of the person or the general public.

(4) OTHER SITUATIONS WHEN LICENSING ACTION IS TAKEN.

(a) As authorized by s. 343.25(7), Stats., the license shall be denied or canceled if the person does not provide the medical information required in s. TRANS 108.05.

(b) Where there is evidence that an episode has occurred within the past 6 months, immediate licensing action shall be taken based on that evidence. This action shall be taken when:

1. The department receives information from a reliable source, such as a police report, physician report, parent, or spouse that the person has experienced an episode; and

2. This information is substantiated by a second reliable source; and

3. There is other evidence that there is a medical problem, such as prior medical reports or a report of an accident or conviction caused by an episode.

TRANS 108.07 Special licenses. (1) CHAUFFEUR LICENSES. (a)

A person who is qualified for licensing under subs. TRANS 108.06(2) or (3) may be permitted to hold a restricted chauffeur license for operation of a motor vehicle in intrastate commerce if the department determines that licensing does not present a substantial risk to the safety of that person or the general public, taking into account:

1. The type of vehicle used;
2. The hours of operation;
3. The routes and distances normally travelled; and
4. The type of cargo hauled.

(NOTE: Under U.S. Department of Transportation regulations, persons diagnosed as having epilepsy are prohibited from operating motor vehicles in interstate commerce.)

(b) A chauffeur license may not be issued under this section to any person who operates or intends to operate a motor vehicle for the purpose of transporting persons for hire or for the purpose of transporting hazardous materials.

(c) Persons subject to this chapter may be eligible for an unrestricted chauffeur license only if they have experienced a single episode under the circumstances described in par. TRANS 108.06(1)(c) and at least 2 years have elapsed since the single episode.

(2) MOTORCYCLE OPERATOR LICENSE ENDORSEMENT. Persons who are otherwise qualified for licensing under subs. TRANS 108.06(1)

to (3) may have their licenses validated for operation of motor-cycles without the imposition of any additional requirements or conditions. However, any restrictions placed on their operator licenses shall apply with equal force and effect to their motor-cycle operations.

(3) SCHOOLBUS OPERATOR LICENSES. In accordance with s. 343.12(2)(g), Stats., and rules of the department of public instruction (ch. PI 7), persons who have an established medical history or clinical diagnosis of epilepsy or any other condition that is likely to cause an episode are not allowed to obtain or hold a license to operate school buses.

TRANS 108.08 License restrictions. (1) Licenses held by persons subject to this chapter shall be restricted in accordance with the criteria prescribed in this section. The license restrictions shall be determined by the department as appropriate in each individual case and shall be consistent with the safety and welfare of the person and the general public. The restrictions may include, but are not limited to, the maximum distance that may be travelled to and from the person's residence to place of employment or the time period of operations during any day (for example, operation restricted to daylight hours only).

(2) In establishing the appropriateness of restrictions, the department shall consider:

(a) The relative reliability and success of the measures used, including medication, in achieving episode control; and

(b) The person's general state of health and susceptibility to fatigue; and

(c) The area in which the person generally operates a motor vehicle, taking into account road and traffic conditions encountered; and

(d) The needs of the person to operate a motor vehicle, for example, commuting to a place of employment, travel to medical treatment facilities and the like; and

(e) Availability of alternative transportation; and

(f) Types of vehicles to be driven.

3. Restrictions imposed under this chapter shall be in addition to any other restrictions, including corrective lens restrictions, that may be required or appropriate under s. 343.13, Stats., or other provisions of law.

TRANS 108.09 Notice of departmental licensing actions.

(1) Persons affected by any departmental licensing action shall be given written notice thereof by first class mail sent to the person's mailing address then currently on file with the department.

(2) A notice of license denial or cancellation shall include the specific reasons for the action and information on applicable review and appeal procedures.

TRANS 108.10 Medical review boards. (1) An appearance before a medical review board may be requested by a person:

(a) When the applicability of any of the conditions prescribed in s. TRANS 108.06(1) (a) through (c) are at issue.

(b) To obtain a review of the department's licensing action when a license is denied or cancelled under s. TRANS 108.06(2) or (3).

(c) When a restricted license has been granted and the issue is whether or not an episode occurred.

(d) Appearances before a medical review board are not afforded for the sole purpose of reviewing the nature or extent of restrictions imposed on licenses held under this chapter.

(2) The department may request that a person appear before a medical review board when additional medical review and recommendation is desirable in making the licensing decision.

(3) After receiving the recommendations of a medical review board, the department shall make its final licensing decision. Notice of the department's action shall be sent to the person affected within 10 working days after the person's appearance before the medical review board. The notice shall include the medical review board's recommendations and shall state the reasons for the recommendations and department's decision.

TRANS 108.11 Judicial review. (1) Persons aggrieved by the department's actions relating to the imposition of licensing restrictions under this chapter may seek judicial review in accordance with s. 343.40, Stats.

(2) Persons aggrieved by the department's decision based on recommendations of the medical review board to cancel or deny licenses under this chapter may seek judicial review in accordance with s. 343.09(4), 343.16(2)(b) or 343.40, Stats.


TRANS 108.12 When license reinstatement fee not required. No reinstatement fee is required if it is found that the person's license was cancelled and the episode that was the subject of the

cancellation did not occur or was the result of behavior or circumstances wholly unrelated to any medical condition.

(END)

The rules contained in this order shall take effect upon publication as provided in s. 227.026(1)(intro.), Stats.

Signed at Madison, Wisconsin this 15th
day of January, 1981.



Lowell B. Jackson, P.E.
Secretary
Wisconsin Department of Transportation