

CR 87-144

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CERTIFICATE

State of Wisconsin)
)
Department of Transportation) ss.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Ronald R. Fiedler, P.E. 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 was duly approved and adopted by this Department on February 11, 1988.

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 11 day of February, 1988.

Ronald R. Fiedler, P.E., Secretary
for Wisconsin Department of Transportation

4-1-88

OFFICE OF SECRETARY

In the matter to Repeal ss. Trans
 108.04 (1), 108.05 (1) and
 108.10 (1) (b); Renumber ss.
 Trans 108.02 (2) to (9), 108.04
 (5) and (6), 108.05 (2) to (5),
 108.10 (1) (c) to (e); Renumber and
 Amend ss. Trans 108.04 (2) to (4)
 and 108.07 (3) 1. and 2. a. and b.;
 Amend ss. Trans 108.01 (1);
 108.02 (9), 108.03 (1) (c) 2.,
 108.05 (intro.), and (1), 108.07 (1)
 (a) (intro.), (b) and (c), 108.07
 (2), 108.10 (1) (a) and 108.10 (3);
 Repeal and Recreate ss. Trans
 108.06, and 108.08.; Create s.
 108.02 (2), Wis. Admin. Code,
 Relating to Driver Licensing of
 Persons Who Have Experienced
 Episodes of Altered Consciousness
 or Loss of Body Control.

ORDER ADOPTING
RULE

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ANALYSIS BY THE DEPARTMENT OF TRANSPORTATION

The recent passage of 1987 Wisconsin Act 40 added to s. 343.06 (7), Stats., the requirement that the department of transportation define "reasonable control" in an administrative rule. This legislation also deleted sub. 343.06(6) and s. 343.09, Stats.; those provisions concerned the licensing of persons with epilepsy. The deletion of those provisions removes from state statute any express reference to epilepsy as a traffic safety issue.

This rule defines "reasonable control" for some medical conditions or disorders. This rule establishes new standards for licensing persons having episodes of altered consciousness or loss of body control and removes from the administrative rule all references to epilepsy. The period in which a person must remain episode free is reduced from six to three months. The exceptions to the episode free requirement are deleted along with the requirement that an individual's license will generally be restricted for six to 24 months.

REGULATORY FLEXIBILITY ANALYSIS

This rule has no significant impact on small business.

FISCAL IMPACT

No fiscal impact is anticipated from the promulgation of these rule changes.

CONTACT PERSON

The person to contact for further information on this rule is Anna Biermeier, (608) 266-0194.

Statutory Authority: s. 85.16(1), Stats.
Statutes Interpreted: ss. 343.06(7), 343.13 and 343.16(2), Stats.

RULE TEXT

SECTION 1. Trans 108.01 (1) is amended to read:

Trans 108.01 PURPOSE AND SCOPE. (1) The purpose of this chapter is to establish the department's administrative

interpretation of ss. ~~343.09~~ 343.06 (7), 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.~~

SECTION 2. Trans 108.02 (2) to (9) are renumbered (3) to (10).

SECTION 3. Trans 108.02 (2) is created to read:

Trans 108.02 (2) "Basic driving needs" means a person's driving requirements for such purposes as traveling between that person's home and that person's doctor, place of employment, usual neighborhood shopping districts or other necessary destinations.

SECTION 4. Trans 108.02 (9) is amended to read:

Trans 108.02 (9) "Medical review board" or "review board" means a medical review board established under ~~ss. 343.09 (4) and~~ s. 343.16 (2), Stats.

SECTION 5. Trans 108.03(1)(c) 2. is amended to read:

Trans 108.03(1)(c)2. Knowledge of ~~antieconvulsant~~
~~medications~~ episode medication and its effects.

SECTION 6. Trans 108.04 (1) is repealed.

SECTION 7. Trans 108.04 (2), (3) and (4) are renumbered
108.04 (1), (2) and (3) and as renumbered are amended to read:

Trans 108.04 MEDICAL REPORTS; FILING REQUIREMENTS. (1)

~~Persens~~ A person who ~~have~~ has experienced only a single,
nonrecurring episode ~~and-meet-the-requirements-of-Trans~~
~~108-06(1)(e)7-are~~ is required to file a medical reports report
every 6 months for 2 years ~~since their~~ following that single
episode. To be eligible for the two year program, the medical
report filed by a person's examining physician shall in writing
state that the episode was an isolated occurrence and shall also
state the following:

(a) The cause of the episode is identified;

(b) The physician believes that another episode is unlikely
to occur;

(c) The physician is not treating and has not treated the person for the episode; and

(d) There is no previous history of any episode.

~~(2) Persons-who-are-not-subject-to~~ A person whose medical report filed under sub. (1) or (2) shows that the episode was not isolated, that treatment for the episode has been given, or that the person has a history of other episodes shall file medical reports every 6 months for 2 years and annual medical reports thereafter until 5 years have elapsed since ~~their~~ the last episode.

(3) In addition to the reporting requirements in subs. (1) ~~to (3)~~ and (2), the department may require ~~persons~~ a person 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.

SECTION 8. Trans 108.04 (5) and (6) are renumbered (4) and (5).

SECTION 9. Trans 108.05 (intro.) is amended to read:

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 the physician. The department shall review the medical report for the purpose of ~~making-a~~ determining whether:

SECTION 10. Trans 108.05 (1) is repealed.

SECTION 11. Trans 108.05 (2) to (5) are renumbered (1) to (4).

SECTION 12. Trans 108.05(1) as renumbered is amended to read:

Trans 108.05(1) 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

SECTION 13. Trans 108.06 is repealed and recreated to read:

Trans 108.06 LICENSING DECISION. (1) 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.

(2) Any person who has experienced an episode within the 3 month period immediately preceding the department's licensing action may not hold a license.

(3) (a) In this subsection, "reliable source" includes, but is not limited to, a police report or physician's report or a report from a parent or spouse.

(b) Whenever the department has evidence that an episode occurred within the preceding 3 months, the department shall take immediate licensing action based on that evidence. This action shall be taken whenever the following occurs:

1. The department receives information from a reliable source that the person has experienced an episode;

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

3. The department has other evidence that there is a medical problem, including, but not limited to, a prior medical report, a report of an accident or a conviction that includes evidence of an episode.

(c) Whenever the department receives a medical report that shows the person has poor compliance, as described by the

person's physician, with the person's medical treatment program, the department shall take immediate licensing action based on that evidence.

SECTION 14. Trans 108.07 (1) (a) (intro.), (b) and (c) are amended to read:

Trans 108.07 SPECIAL LICENSES. (1) CHAUFFEUR'S LICENSES.

(a) (intro.) A person who is episode free for more than 6 3 months may be permitted to hold a restricted ~~chauffeur~~ chauffeur's license if the department determines from the criteria information listed in s. Trans 108.03 that the person's condition is under control and that licensing does not present a substantial risk to the safety of that person or the general public, taking into account:

(b) ~~chauffeur~~ Chauffeur's licenses issued in accordance with par. (a) ~~are generally~~ shall be restricted until the person is episode free for a ~~period of~~ 10 years, except that a person may be eligible for an unrestricted chauffeur's license if at least 2 years have elapsed since a single episode as specified ~~in~~ under s. Trans ~~108.06-(1)-(e)~~ 108.04(1).

(c) ~~In addition to~~ In accord with the criteria for restrictions established in par. (a), when a ~~chauffeur~~ chauffeur's license is issued to a person who has experienced an

episode ~~it will~~ , the license shall be restricted so that the person may not transport passengers for hire, nor transport hazardous materials nor operate an authorized emergency vehicle except when:

1. Only a single episode as specified in s. Trans ~~108.06~~ ~~(1)-(e)~~ 108.04 (1) has been experienced and at least 2 years have elapsed since the episode, or

2. If not exempt by subd. 1., then only when the person:

a. Has not had an episode in the past 5 years; and

b. ~~Has been off-anticonvulsant~~ not taken medication for the episode for 5 years.

SECTION 15. Trans 108.07 (2) is amended to read:

Trans 108.07 (2) MOTORCYCLE OPERATOR LICENSE. A person who ~~is otherwise~~ the department finds qualified for licensing under s. Trans 108.06 ~~(1)-(e)-(3)~~ may hold an operator's license endorsed for operation of a motorcycle or may hold an operator's license restricted to operation of a motorcycle. Operator's license restrictions apply with equal force and effect to motorcycle operations.

SECTION 16. Trans 108.07 (3) 1. and 2. a. and b. are renumbered 108.07 (3) (a) and (b) 1. and 2. and amended to read:

Trans 108.07 (3) (a) Only a single episode as specified in s. ~~Trans 108.06-(1)-(e)~~ 108.04 (1) has been experienced and at least 2 years have elapsed since the episode; or

(b) If not exempt by ~~1-~~ par. (a), then only when the person:

1. Has not had an episode in the past 5 years; and

2. Has been ~~off-antiepileptic~~ not taken medication for the episode for 5 years.

SECTION 17. Trans 108.08 is repealed and recreated to read:

Trans 108.08 LICENSE RESTRICTIONS. (1) Restrictions imposed under this chapter shall be in addition to any other restrictions, including corrective lenses restrictions, that may be required or appropriate under s. 343.13, Stats., or under other provisions of the law.

(2) The department may restrict an operator's license, whenever the licensee's medical history shows any of the following:

(a) That the person's physician recommends restrictions; or

(b) That a medical review board recommends restrictions.

SECTION 18. Trans 108.10 (1) (a) is amended to read:

Trans 108.10 (1) (a) When the applicability existence of any of the conditions prescribed described in s. Trans 108.06 ~~(1)~~ ~~(a)-through-(e)-are~~ is at issue.

SECTION 19. Trans 108.10 (1) (b) is repealed.

SECTION 20. Trans 108.10 (1) (c), (d) and (e) are renumbered Trans 108.10 (1) (b), (c) and (d).

SECTION 21. Trans 108.10 (3) is amended to read:

Trans 108.10 (3) After receiving the recommendation 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

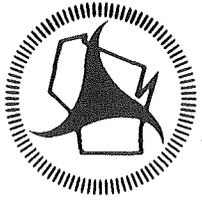
shall include the medical review board's recommendations, and shall state the reasons for the recommendations and department's decision: and shall provide information on applicable review and appeal procedures.

(End of Rule Text)

The rule shall take effect upon the first day of the month following publication in accordance with s. 227.22(2) (intro.), Stats.

Signed at Madison, Wisconsin
this 11th day of February 1988.

for Arnald H. Janssen, Deputy
Ronald R. Fiedler, P.E.
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

February 12, 1988

DIVISION OF MOTOR VEHICLES
4802 Sheboygan Avenue
P.O. Box 7949
Madison, WI 53707-7949

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FEB 16 1988

Revisor of Statutes
Bureau

Mr. Gary Poulson
Assistant Revisor of Statutes
30 W. Mifflin
Suite 702
Madison, Wisconsin 53702

Re: Clearinghouse Rule 87-144
Relating to driver licensing of persons who have experienced
episodes of altered consciousness or loss of body control; Trans
108.

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.20, Wis. Stats., is a certified copy of CR 87-144, an administrative rule relating to driver licensing of persons who have experienced episodes of altered consciousness or loss of body control. An additional, uncertified copy of CR 87-144 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah Jaeger".

Deborah Jaeger
Program Analyst

Enclosures

cc: Thomas Walker
Public Affairs Office
Jim Thiel