



SPONSOR: Rep. Matthews & Sen. Hansen
Reps. Heffernan, K. Johnson, Osienski

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 314

AN ACT TO AMEND TITLES 21 AND 24 OF THE DELAWARE CODE RELATING TO DRIVER'S LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 101, Title 21 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 § 101. Words and phrases.

4 For the purposes of this title, unless the context otherwise clearly indicates:

5 (33) "licensed practitioner" means a physician, physician assistant (PA), or APRN licensed under Title 24.

6 Section 2. Amend § 2707, Title 21 of the Delaware Code by making deletions as shown by strike through and
7 insertions as shown by underline as follows:

8 § 2707. License qualifications.

9 (b) The Department shall not issue an operator's or chauffeur's license to any:

10 (6) Person who is subject to loss of consciousness ~~due to disease of the central nervous system~~, unless such
11 person furnishes the Department with a certificate of the person's treating licensed practitioner. This certificate may be
12 ~~from physician, duly licensed to practice medicine and surgery, which certificate states:~~

13 ~~"I (name of treating physician) hereby certify that I am the treating physician for (name of person), that I~~
14 ~~have been the treating physician for him/her for a period of at least 3 months, that I am aware of his/her medical~~
15 ~~history, including his/her history with respect to diseases of the central nervous system, and that such person's~~
16 ~~physical or mental disability under sufficient control to permit him/her to operate a motor vehicle with safety to~~
17 ~~person and property."~~

18 ~~Each person licensed to operate a motor vehicle on the basis of such certificate shall furnish the Department~~
19 ~~with a new certificate each year not later than the last day of the holder's birth month and not earlier than 45 days~~
20 ~~before said date. The certificate shall show that on the basis of an examination within said period a physician duly~~
21 ~~licensed to practice medicine and surgery has determined that the physical or mental disability remains under sufficient~~

control to permit the person to operate a motor vehicle with safety to person and property. Except as provided below, if such certificate is not received by the Department, the Department shall suspend said license and shall notify its holder.

~~The above provision of this paragraph notwithstanding, if the person's treating physician, duly licensed to practice medicine and surgery, furnishes the Department with a certificate which states:~~

~~“(name of treating physician) hereby certify that I am the treating physician for (name of person), that I have been the treating physician for him/her for a period of at least 3 months, that I am aware of his/her medical history, including his/her history with respect to any disease of the central nervous system, that such person's disease no longer requires treatment and that such person can reasonably be expected to suffer no further losses of consciousness on account of such disease.”;~~

a. A physician, duly licensed to practice medicine, who may certify that a driver is under sufficient control of loss of consciousness episode(s) and does not have an elevated risk to safely operate a motor vehicle.

b. A non-physician licensed practitioner, who may certify a driver has not had a loss of consciousness episode(s) in the last three months and does not have an elevated risk to safely operate a motor vehicle.

~~the~~The Department may find that the person need no longer submit annual certificates of competence to operate a motor vehicle and shall notify the person accordingly. The Department may at its discretion retain medical consultants to advise it. ~~No physician-licensed practitioner~~ who examines a person and provides a certificate in good faith in accordance with this paragraph shall be subject to any civil or criminal liability on account of having provided the certificate.

Section 3. Amend § 2723, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2723. Medical Advisory Board.

(a) There shall be a Medical Advisory Board consisting of a minimum of 3 members nominated by the ~~President of the Medical Council of Delaware~~Board of Medical Licensure and Discipline or the Chairperson of the Board and appointed by the Secretary. The Chairperson of the Board shall be the Medical Director of the Division of Public Health. The Board shall consult an ophthalmologist ~~and~~or an optometrist in all cases where a vision problem exists. The ophthalmological consultant shall be nominated by the ~~President of the Medical Council of Delaware~~Board of Medical Licensure and Discipline or the Chairperson of the Board, and the optometric consultant shall be nominated by the ~~President of the Delaware Optometric Association~~Board of Examiners in Optometry or the Chairperson of the Board. Both vision consultants shall be appointed by the Secretary.

Section 4. Amend § 2724, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2724. Medical evaluation of drivers; suspension; review.

(b) If this report is not received within the 30 days or if a reasonable explanation for the delay is not received, the Secretary shall notify the individual that the individual's driving privilege has been suspended until such report is received and evaluated. ~~Upon receipt of the completed report, the Secretary shall forward this report to the Secretary of the Department of Health and Social Services for review.~~

(c) ~~The Secretary of the Department of Health and Social Services shall review the report to determine if the case warrants evaluation by submission to the Medical Advisory Board.~~ If the report gives no medical or optometric information indicating impairment of any degree, the report shall be returned to the Secretary with the indication that there is no apparent need for action based on medical impairment. If the information in the medical or optometric report warrants review by the Board, a copy of the report shall be forwarded to each member of the Board for evaluation. In case of a vision problem the report shall also be forwarded to the optometric ~~and~~ or ophthalmological consultants.

Section 5. Amend § 1763, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1763. ~~Reports of persons who are subject to losses of consciousness; limitation on use; failure; penalty.~~
[repealed]

~~Every physician attending or treating persons who are subject to losses of consciousness due to disease of the central nervous system shall report within 1 week to the Division of Motor Vehicles the names, ages and addresses of all such persons unless such person's infirmity is under sufficient control to permit the person to operate a motor vehicle with safety to person and property.~~

~~The reports shall be for the information of the Division of Motor Vehicles in enforcing the Motor Vehicle Law. Said reports shall be kept confidential and used solely for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this State.~~

~~A physician failing to make such a report shall be fined not less than \$5.00 nor more than \$50 and costs for each such report the physician fails to make.~~

SYNOPSIS

This Act does all of the following: (1) Allows for all licensed practitioners that are treating a driver for a medical condition to report findings which allows for Nurse Practitioner, Physician Assistant, or Physician to sign Division paperwork and mirrors verbiage found in Title 24; (2) Updates the name of Medical Council to Board of Medical Licensure and Discipline which ensures compliance with code in handling of individual cases; and (3) Changes the Secretary of Health and Social Services to Secretary of Transportation for determining the status of driver's license for individuals with

a potential medical condition which allows for quicker response and ensures the confidentiality of a driver. Lastly it removes a section from the Medical Licensure Act consistent with the other provisions of the bill.