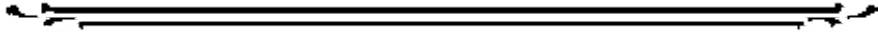


APPENDIX

C



DEPARTMENT OF STATE
BUREAU OF REGULATORY SERVICES
DRIVER LICENSE GENERAL RULES

Filed with the Secretary of State on February 16, 2011

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the secretary of state by sections 204 and 625k of 1949 PA 300, MCL 257.204 and 257.625k, and section 33 of 1969 PA 306, MCL 24.233)

R 257.301 and R 257.313a of the Michigan Administrative Code are amended and R 257.301a is added to read as follows:

R 257.301 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Abstinence" means to refrain completely from consuming any amount of any type of alcoholic beverage or controlled substance, except a controlled substance prescribed for the petitioner by a licensed health professional.
- (b) "Act" means 1949 PA 300, MCL 257.1.
- (c) "Administrator" means the secretary of state or an individual designated by the secretary of state to act in his or her place.
- (d) "Appeal hearing" means an appeal under section 322 of the act.
- (e) "Communication equipment" means a conference telephone, video conferencing equipment, or other electronic device.
- (f) "Current substance abuse evaluation" means an evaluation that is dated not more than 3 months before the date it is received by the department.
- (g) "Division" means the driver assessment and appeal division, or any subsequent name assigned to the unit responsible for administering these rules, of the bureau of regulatory services of the department.
- (h) "Hearing" means an appeal under section 322 of the act or a proceeding under section 625f of the act or section 80190, 81140, or 82146 of the natural resources and environmental protection act.
- (i) "Hearing officer" means a person who is appointed by the secretary of state to conduct hearings.
- (j) "Implied consent hearing" means a proceeding under section 625f of the act or section 80190, 81140, or 82146 of the natural resources and environmental protection act.
- (k) "Natural resources and environmental protection act" means 1994 PA 451, MCL 324.101.
- (l) "Party" means either of the following:
 - (i) A petitioner.
 - (ii) The arresting police officer or the police officer in charge of the case.

(m) “Petitioner” means a person who qualifies for a hearing.

(n) “Structured support program” means specific activities that a substance-abusive or substance-dependent individual has incorporated into his or her lifestyle to help support his or her continued abstinence from alcohol or controlled substances, or both.

(o) “Substance abuse evaluation” means a written report regarding the petitioner on a form prescribed by the department that includes a statement of the testing instruments used and the test results, if any exist, a complete treatment and support group history, diagnoses, prognoses, and relapse histories, including those relapse histories that predate the beginning of the most recent treatment program.

(p) “Urinalysis drug screen” means a chemical analysis of an individual’s urine to determine the presence of alcohol or controlled substances, or both.

(2) A word or term defined in the act has the same meaning when used in these rules.

R 257.301a Definitions.

Rule 1a. As used in these rules:

(a) “BAIID” means a properly functioning breath alcohol ignition interlock device that meets or exceeds the requirements of section 625k of the act.

(b) “Calibrate” means to test and adjust a BAIID so that it accurately measures breath alcohol concentration.

(c) “Circumvent” means to do, or attempt to do, any of the following to start a vehicle without taking and passing a start-up test:

(i) Use a bogus or filtered breath sample.

(ii) Use an electronic bypass or override mechanism to start a vehicle.

(iii) Push start or hot wire a vehicle.

(iv) Use any other method to bypass or override the BAIID to start a vehicle.

(d) “Major violation” means any of the following during a monitoring period if the BAIID is a requirement of a restricted license issued under section 322(6) of the act:

(i) A rolling retest violation.

(ii) The petitioner is issued a permit under section 625g of the act.

(iii) The petitioner is convicted of violating section 625l of the act.

(iv) Servicing of the BAIID indicates that the BAIID has been tampered with or circumvented or that there was an attempt to tamper with or circumvent the BAIID.

(v) Three minor violations.

(vi) A BAIID is removed from a vehicle without an order from the department authorizing removal of the BAIID. This subparagraph does not apply if a BAIID is installed within 7 days after removal in any vehicle owned or operated by a petitioner whose license is restricted.

(vii) Operating any motor vehicle without a properly installed and functioning BAIID.

(e) “Minor violation” means either of the following during a monitoring period if the BAIID is a requirement of a restricted license issued under section 322(6) of the act:

(i) After the BAIID has been installed for at least 2 months, 3 start-up test failures.

(ii) The petitioner fails to report to the BAIID manufacturer, installer, or service provider for monitoring within 7 days after his or her scheduled service date.

(f) “Monitoring period” means any period a BAIID is installed in a vehicle or is required by any of the following:

- (i) The act.
- (ii) A hearing officer.
- (iii) Any extensions imposed by the department under the act or these rules.
- (g) “Rolling retest violation” means either of the following:
 - (i) The BAIID has detected, while the vehicle is in operation, an alcohol content identified in section 625k(5)(a)(iii)(B)(II) of the act. This subparagraph does not apply if, within 5 minutes of that detection, the person delivers a breath sample that the BAIID analyzes as having an alcohol content of less than 0.025 grams per 210 liters of breath.
 - (ii) The person fails to take a rolling retest when prompted to do so by the BAIID.
- (h) “Service” means all of the following:
 - (i) Calibrate a BAIID.
 - (ii) Maintain a BAIID.
 - (iii) Download data from a BAIID.
 - (iv) Inspect a BAIID for evidence of tampering or circumventing.
 - (v) Invalidate any override for the BAIID previously provided by the manufacturer, installer, or service provider to the driver or on behalf of the driver.
- (i) “Start-up test” means a breath test required to start a vehicle to ensure that the driver’s breath alcohol content is below the maximum allowable level before the BAIID will allow a driver to start a vehicle.
- (j) “Start-up test failure” means the BAIID has prevented the motor vehicle from being started after a start-up test. This subdivision does not apply if a passing test is provided within 15 minutes of the initial start-up test. Multiple unsuccessful attempts at 1 time to start the vehicle shall be treated as 1 start-up test failure under this subdivision. Unsuccessful attempts 1 hour or more apart shall be treated as separate start-up test failures under this subdivision.
- (k) “Tamper” means to do, or attempt to do, any of the following without authorization from the manufacturer, installer, or service provider and the department so that a driver can start the vehicle without taking and passing a start-up test:
 - (i) Physically alter or disable a BAIID.
 - (ii) Disconnect a BAIID from its power source.
 - (iii) Remove, alter, or deface physical anti-tampering measures on the BAIID.

R 257.313a Breath alcohol ignition interlock devices (BAIID).

Rule 13a. (1) If a person whose license was denied or revoked under section 303(2)(c) or (g) of the act, or denied or revoked under section 303(2)(d) of the act for 1 conviction for a violation or attempted violation of section 625(4) or 625(5), or any prior or subsequent enactment of those provisions, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, was granted a restricted license on or before October 1, 1999, and the hearing officer continues the restricted license following a hearing held after October 1, 1999, then the hearing officer may do both of the following:

- (a) Require the installation of a BAIID on each motor vehicle the person owns or intends to operate, the costs of which shall be borne by the person whose license is restricted.
- (b) Condition the issuance of the continued restricted license upon verification by the department that a BAIID has been installed.

(2) A restricted license permitted under section 319(8)(g) of the act shall not be issued until proof of the installation of the BAIID required under section 319(8)(h) of the act is provided to the department.

(3) The minimum period required by section 322(9) of the act begins when both of the following have occurred:

(a) The petitioner provides verification to the department that a BAIID has been installed.

(b) The department issues a valid restricted license to the petitioner.

(4) If a restricted license issued under section 322(6) of the act requiring a BAIID is interrupted, the hearing officer may aggregate the periods of time that a restricted license which included a BAIID requirement was actually operative to determine whether the minimum period required by section 322(9) of the act has been met.

(5) The manufacturer, installer, or service provider shall service an installed BAIID not less than once every 60 days.

(6) The manufacturer, installer, or service provider of a BAIID shall submit a report to the department if any of the following occur:

(a) Servicing of the BAIID indicates that the person has committed a major or minor violation as defined in Rule 1a.

(b) Servicing of the BAIID indicates that the person whose license is restricted under section 319(8)(g) of the act operated or attempted to operate the vehicle with a blood alcohol level of 0.025 grams per 210 liters of breath or higher. For the purposes of this subdivision, a person is presumed to have operated with a blood alcohol level of 0.025 grams per 210 liters of breath or higher if the person fails to take any retest prompted by the BAIID. This subdivision does not apply if either of the following occurs:

(i) For a start-up test, a start-up test failure occurs within the first 2 months after installation of the BAIID, or if within 15 minutes of that detection the person delivers a breath sample that the BAIID analyzes as having an alcohol content of less than 0.025 grams per 210 liters of breath.

(ii) For any retest prompted by the BAIID, within 5 minutes of that detection the person delivers a breath sample that the BAIID analyzes as having an alcohol content of less than 0.025 grams per 210 liters of breath.

(c) A driver causes a manufacturer, installer, or service provider to remove a BAIID without a written order from the department authorizing the removal. This subdivision does not apply if a BAIID is installed within 7 days after removal in any vehicle owned or operated by a driver whose license is restricted.

(7) A report shall be submitted to the department not later than 5 business days after an event listed under subrule (6) of this rule occurs or becomes known to the manufacturer, installer, or service provider. The manufacturer, installer, or service provider may also submit a written report to the department of any other activity that may violate these rules or a restricted license requiring use of a BAIID issued by the department under section 322 or 319 of the act.

(8) A manufacturer, installer, or service provider shall submit a report required by subrule (6) of this rule on a form and in a manner prescribed by the department and at the same time shall provide a copy of the report to the person for whom a report is required by subrule (6) of this rule.

(9) A report required under subrule (6) of this rule shall include the following information:

(a) All major and minor violations revealed by the servicing of the BAIID since the BAIID was installed or since the last servicing, whichever is later.

(b) Unless subrule (6)(b)(i) or (ii) of this rule applies, all instances where the BAIID has recorded a blood alcohol level of 0.025 grams per 210 liters of breath or higher.

(c) All dates of BAIID installation and removal.

(d) Any relevant documentation and BAIID logs that support the event(s) indicated in the report, including BAIID logs from the day before and the day after the indicated event(s).

(e) Any other information required by the department.

(10) A report required under subrule (6) of this rule shall not be rescinded by a manufacturer, installer, or service provider.

(11) If a major violation is reported to the department, then all of the following provisions apply:

(a) The department shall reinstate the original revocation or denial, or both, under section 303 of the act and shall give not less than 5 days' written notice to the petitioner.

(b) If a written request for a hearing is filed within 14 days after the reinstatement under subdivision (a) of this subrule, then the department shall schedule a hearing.

(c) At a hearing scheduled under this subrule, the petitioner has the burden of establishing that the reinstated section 303 revocation or denial, or both, should be set aside or modified.

(12) If a minor violation is reported to the department, then the department shall extend the period of time before another hearing may be held by 3 months and shall extend the minimum period of time for the BAIID requirement by 3 months.

(13) After the minimum monitoring period defined in Rule 1a, all of the following provisions apply:

(a) If a restricted license was issued under subrule (2) of this rule, the department may order the removal of the BAIID only after receipt of verification from the manufacturer, installer, or service provider that the person subject to using a BAIID has operated the vehicle with no instances of reaching a blood alcohol level of 0.025 grams per 210 liters of breath or higher. The person does not have an instance of reaching a blood alcohol level of 0.025 grams per 210 liters of breath or higher if either of the following occurs:

(i) Within 15 minutes of that detection on a start-up test the person delivers a breath sample that the BAIID analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

(ii) Within 5 minutes of that detection on any retest prompted by the BAIID the person delivers a breath sample that the BAIID analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

(b) The department may order the removal of the BAIID if the only instances of reaching a blood alcohol level of 0.025 grams per 210 liters of breath or higher occurred within the first 2 months after the BAIID was installed.

(c) The person subject to using a BAIID shall obtain a BAIID report from every manufacturer, installer, or service provider with which that person has had a BAIID installed.

(d) Upon the request of a person subject to using a BAIID, the manufacturer, installer, or service provider shall prepare and submit a BAIID report to the department within 5 business days of the request on a form and in a manner prescribed by the department.

(e) As directed by the department, the person subject to using a BAIID shall submit the report required under this subrule to the department.

(f) A person subject to using a BAIID may be required to prove that he or she had the BAIID for the minimum time period required by the act.

(14) Notwithstanding subrule (13) of this rule, at the conclusion of each 12-month period that a person has a BAIID installed in a vehicle, and anytime a person subject to using a BAIID causes a BAIID to be removed, the manufacturer, installer, or service provider shall prepare and submit to the department a report on a form and in a manner prescribed by the department, and shall provide a copy of the report to the person subject to using a BAIID.

(15) At the request of the department, a manufacturer, installer, or service provider shall provide any information and documentation relevant to the department's monitoring of a person using a BAIID.

(16) A manufacturer, installer, or service provider shall not provide overrides or override instructions to a person using a BAIID, or to someone on behalf of the person using a BAIID, unless such override is permitted by the national highway traffic safety administration's model specifications for BAIID, 57 Fed Reg 11772 (April 7, 1992), or authorized by the department.

(a) If an override or override instruction is provided to a person using a BAIID or to someone on behalf of the person using a BAIID, the manufacturer, installer, or service provider shall service the BAIID within 24 hours and submit a report to the department on a form and in a manner prescribed by the department within 1 business day of the service.

(b) If the BAIID is installed in a vehicle that becomes inoperable or otherwise unable to be serviced beyond 24 hours, the manufacturer, installer, or service provider shall service the BAIID within 24 hours of the vehicle's return to operation.

(17) The department shall inform a BAIID manufacturer, installer, or service provider when an order authorizing removal of a BAIID is issued. This subrule does not apply unless the manufacturer, installer, or service provider requests, in a manner prescribed by the department, to be informed when a BAIID removal authorization order is issued.

(18) Unless otherwise provided in the act or these rules, this rule applies to any BAIID the department is required to monitor under the act.

DEPARTMENT OF STATE

BREATH ALCOHOL IGNITION INTERLOCK DEVICE

GENERAL RULES

(By authority conferred on the secretary of state by section 625k of Act No. 300 of the Public Acts of 1949, as amended, and section 33 of Act No. 306 of the Public Acts of 1969, as amended, being section 257.625k and 24.233 of the Michigan Compiled Laws)

R 257.1001 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means Act No. 300 of the Public Acts of 1949, as amended, being section 257.1 et seq. of the Michigan Compiled Laws.
- (b) "Administrator" means the secretary of state or an individual designated by the secretary of state to act in his or her place.
- (c) "BAIID" means a breath alcohol ignition interlock device.
- (d) "Certified BAIID" means a BAIID that has been certified by a department-approved laboratory as meeting or exceeding the requirements of section 625k of the act.

R 257.1002 Address of administrator.

Rule 2. The official address of the administrator is:

Michigan Department of State
Lansing, Michigan 48918

R 257.1003 Approval of laboratory; termination of approval.

Rule 3. (1) The administrator may approve a laboratory under section 625k(1) of the act if the laboratory certifies, in writing, that it is capable of properly testing a BAIID to determine if it meets or exceeds the requirements of section 625k of the act and is capable of certifying that the BAIID meets or exceeds the requirements of section 625k of the act.

(2) A previously approved laboratory that is no longer capable of properly testing or certifying a BAIID shall immediately notify the administrator in writing. Upon receipt of notification, the administrator shall immediately terminate the approval of the laboratory.

R 257.1004 Approval and disapproval of BAIIDs; list of manufacturers.

Rule 4. (1) A manufacturer of a BAIID that wishes to be placed on the list of manufacturers of approved certified BAIIDs shall submit a written request, together with all of the information and materials required by the act and rules promulgated to implement the act, to the administrator.

(2) A written request that fails to include all of the information and materials required by the act and these rules is incomplete. The administrator shall return the request to the manufacturer and explain, in writing, why the request is incomplete.

(3) The administrator shall approve or disapprove a BAIID not later than 60 days after receipt of a complete written request.

(4) The administrator shall notify a manufacturer whose BAIID is not approved, in writing, of the determination and the reason or reasons for the determination.

(5) The administrator shall notify a manufacturer whose BAIID is approved, in writing, of the date of approval.

(6) The administrator shall publish a list of all manufacturers of certified BAIIDs that are approved under section 625k of the act. The administrator shall widely disseminate the list and shall republish the list as appropriate.

R 257.1005 Removal from list of manufacturers.

Rule 5. (1) The administrator may remove a manufacturer from the list of manufacturers of approved certified BAIIDs for either of the following reasons:

- (a) The manufacturer, the manufacturer's BAIID, or the manufacturer's installers or service providers no longer comply with the requirements of sections 625k or 625l of the act and rules promulgated to implement the act.
- (b) The manufacturer or the installers and service providers authorized to install and service the manufacturer's BAIID fail to submit reports required by the act or rules promulgated to implement the act in the form prescribed by the department in a timely manner.

(2) Before removing a manufacturer from the list of manufacturers of approved certified BAIIDs, the administrator shall give the manufacturer written notice of the reason or reasons for the proposed removal.

(3) The notice issued under subrule (2) of this rule shall also indicate that the proposed removal will occur 30 days after the date of the notice unless the manufacturer establishes, to the satisfaction of the administrator, either of the following:

- (a) The conditions identified in subrule (1)(a) and (b) of this rule do not exist.
- (b) The manufacturer, the manufacturer's BAIID, or the manufacturer's installers or service providers will comply with the requirements of section 625k of 625l of the act and rules promulgated to implement the act.

R 257.1006 Inspections; noncompliance; removal from lists.

Rule 6. (1) The administrator may conduct inspections of a laboratory, BAIID manufacturer, or BAIID installer or service provider to determine if the laboratory, manufacturer, installer, or provider is in compliance with the act or rules promulgated to implement the act.

(2) If an inspection indicates noncompliance, then the administrator shall give the laboratory, BAIID manufacturer, or BAIID installer or service provider written notice of the noncompliance. In the case of an installer or service provider, the administrator also shall give written notice to the manufacturer of the BAIID that the person installs or services.

(3) Within 30 days of the date of the notice issued under subrule (2) of this rule, the laboratory or manufacturer shall notify the administrator, in writing, of any corrective actions taken.

(4) The administrator may remove a manufacturer or laboratory from the list of manufacturers of approved certified BAIIDs or the list of approved laboratories for either of the following reasons:

- (a) The manufacturer or laboratory fails to take corrective action or to come into full compliance with the provisions of the act or a rule promulgated under the act.
- (b) The manufacturer or laboratory fails to file a written response within 30 days after the date of the notice of noncompliance.

DEPARTMENT OF STATE

VISUAL STANDARDS FOR MOTOR VEHICLE DRIVERS' LICENSES

(By authority conferred upon the secretary of state by section 309 of Act No. 300 of Public Acts of 1949, as amended, being Section 257.309 of the Michigan Compiled Laws)

R 257.1 Vision examinations.

Rule 1. (1) A driver's license applicant and a licensed driver examined as required under chapter 3 of Act No. 300 of the Public Acts of 1949, as amended, being Section 257.301 to 257.327 of the Michigan Compiled Laws, in order to be licensed shall successfully pass a vision test authorized or administered by the department and meet other requirements of law. Whenever required hereunder, he shall submit a statement of examination on a form prescribed by or acceptable to the department which shall contain the name, address, title, and signature of an ophthalmologist or an optometrist, and the full name, address, date of birth, result of the examination, date of examination, and signature of the applicant.

History: 1954 ACS 81. p. 17. Eff. Nov. 13, 1974.

R 257.2 Unrestricted drivers' licenses.

Rule 2. An unrestricted driver's license may be issued to an applicant or licensee who has visual acuity of 20/40 and a peripheral field of vision of 140 degrees or less to and including 110 degrees may be accepted if the applicant or licensee submits a statement of examination on a form prescribed by or acceptable to the department signed by an ophthalmologist or optometrist.

History: 1954 ACS 81. p. 17. Eff. Nov. 13, 1974.

R 257.3 Restricted drivers' licenses.

Rule 3. (1) A restricted driver's license requiring the driver to wear appropriate corrective lenses while driving may be issued if corrective lenses are necessary to meet any vision requirement.

(2) A restricted driver's license permitting daylight driving only may be issued if an applicant or licensee submits a statement from an ophthalmologist or optometrist stating 1 of the following:

- (a) He has visual acuity less than 20/50 to and including 20/70 with no recognizable progressive abnormalities affecting vision.
- (b) He has visual acuity less than 20/50 to and including 20/60 with recognizable progressive abnormalities affecting vision.

(3) A restricted driver's license containing additional conditions and requirements may be issued to an applicant or licensee who has a peripheral field of vision of less than 110 degrees to and including 90 degrees. The applicant or licensee shall pass any driving test specified by the department.

(4) A restricted driver's license may contain additional conditions and requirements.

History: 1954 ACS 81. p. 17. Eff. Nov. 13, 1974.

R 257.4 Denial of suspension of drivers' licenses.

Rule 4. A driver's license shall be denied or suspended indefinitely if the applicant or licensee has visual acuity less than 20/60 with recognizable progressive abnormalities affecting vision; visual acuity less than 20/70 without recognizable

progressive abnormalities affecting vision; visual acuity of 20/100 or less in one eye and less than 20/50 in the other; or a peripheral field of vision less than 90 degrees.

History: 1954 ACS 81. p. 18. Eff. Nov. 13, 1974.

R 257.5 Additional examinations.

Rule 5. The department may require an additional examination of the applicant or licensee.

History: 1954 ACS 81. p. 18. Eff. Nov. 13, 1974.

ADMINISTRATIVE RULES

DEPARTMENT OF STATE

PHYSICAL AND MENTAL STANDARDS FOR DRIVERS

Filed with the Secretary of State on May 31, 1988

These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the secretary of state by section 309 of Act No. 300 of the Public Acts of 1949, as amended, being Section 257.309 of the Michigan Compiled Laws)

R 257.851 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means Act No. 300 of the Public Acts of 1949, as amended, being Section 257.1 et seq. of the Michigan Compiled Laws.
- (b) "Applicant" means a person who applies for any of the following:
 - (a) An operator's license.
 - (ii) A chauffeur's license.
 - (iii) A minor's restricted license.
 - (iv) Any license indorsement.
- (c) "Department" means the department of state.
- (d) "Disability" means a reduction in those mental or physical skills which are necessary to safely operate a motor vehicle.
- (e) "Episode" means any of the following:
 - (i) A condition which causes or contributes to any of the following:
 - (A) A lapse of consciousness.
 - (B) Blackout.
 - (C) Seizure.
 - (D) Fainting spell.
 - (E) Syncope.
 - (F) Other impairment of the level of consciousness.
 - (ii) A condition which causes or contributes to an impairment of an individual's driving judgment or reaction time or affects an individual's ability to safely operate a motor vehicle.
 - (iii) A condition which causes or contributes to a violent or aggressive action relating to the operation of a motor vehicle.
- (f) "Licensee" means a person who has been issued any of the following:
 - (i) An operator's license.
 - (ii) A chauffeur's license.
 - (iii) A minor's restricted license.
 - (iv) A temporary instruction permit.
 - (v) A validated driver's instruction permit.
- (g) "Neuropsychologist" means a psychologist who, by nature of training and experience, has developed expertise in the area of brain-behavior relationships.

- (h) "Physician" means an individual who is currently licensed to practice medicine or osteopathic medicine in this or another state as provided by statute.
- (i) "Psychiatrist" means a physician who, by nature of training and experience, has developed expertise in the area of psychiatry.
- (j) "Psychologist" means an individual who is currently licensed to practice psychology in this or another state as provided by statute.
- (k) "Statement of physical or mental history" means a statement from a physician or psychologist, on a form acceptable to the department, which contains information about a person's physical or mental history or condition as this history or condition relates to the person's ability to safely operate a motor vehicle.

(2) Nothing in these rules shall be construed to require medical testing or examination of an individual who objects on the grounds that such testing or examination violates his or her personal religious beliefs. However, such individual will still be required to meet all reasonable requirements to receive or retain a license or indorsement.

(3) A term defined in the act has the same meaning when used in these rules.

R 257.852 Health consultants.

Rule 2. (1) The secretary of state may appoint health consultants. Consultants shall serve 2-year terms from the date of original appointment. In selecting health consultants, the secretary of state shall appoint 1 or more person from each of the following categories:

- (a) A handicapper knowledgeable in the area of functional limitations which may affect the safe operation of a motor vehicle.
- (b) A licensed physical or occupational therapist knowledgeable in the area of functional limitations which may affect the safe operation of a motor vehicle.
- (c) A driver evaluator or instructor specializing in driver education of the disabled and adaptive motor vehicle equipment instruction.

(2) When appointing a health consultant, the secretary of state shall select from persons possessing expertise in areas such as the following:

- (a) Family practice.
- (b) Internal medicine.
- (c) Rehabilitation medicine.
- (d) Occupational therapy.
- (e) Physical therapy.
- (f) Cardiology
- (g) Psychiatry.
- (h) Psychology.
- (i) Neurology
- (j) Neuropsychology.
- (k) Ophthalmology.
- (l) Optometry.
- (m) Addiction counseling.
- (n) Endocrinology.
- (o) Pharmacology.
- (p) Social work.
- (q) Vocational rehabilitation counseling.
- (r) Other areas related to the diagnosis, treatment, or rehabilitation of disabilities which could affect the safe operation of motor vehicles.

(3) A health consultant may advise the department concerning physical and mental standards related to the licensing of drivers and safe operation of motor vehicles.

(4) Upon request, 1 or more health consultants shall advise the department concerning an applicant's or licensee's physical and mental ability to safely operate a motor vehicle.

(5) A recommendation from a health consultant shall be advisory only.

(6) Each health consultant shall complete a requested review in a timely fashion and shall submit a response to the department within a reasonable period of time, which shall not exceed 30 calendar days if a person's license has been suspended or revoked.

(7) If a consultant's response concerning a person whose license has been suspended or revoked takes more than 30 calendar days on 3 or more occasions, the health consultant shall be discharged.

R 257.853 Statement of physical or mental history; refusal to process, or denial of, license application pending receipt and review of statement; submission by licensee at or before reexamination; contents; confidentiality.

Rule 3. (1) If the department has reason to believe that an applicant has a physical or mental disability which affects his or her ability to safely operate a motor vehicle, the department shall not process the application until a statement of physical or mental history has been received and reviewed.

(2) The application shall be denied if, upon review, the statement indicates the person cannot safely operate a motor vehicle.

(3) If the department has reason to believe that a licensee has a physical or mental disability which affects his or her ability to safely operate a motor vehicle, the department shall require the licensee to submit a statement of physical or mental history at or before a reexamination of the licensee. A license or indorsement may be restricted, suspended, or revoked if that action is ordered at a reexamination conducted by the department or if the person who completed the statement recommends no driving privileges or otherwise indicates the licensee lacks the physical or mental ability to safely operate a motor vehicle.

(4) The statement of physical or mental history shall include all of the following information with respect to the person completing the examination:

- (a) Name, address, title, and signature.
- (b) Area or specialty of practice, if any.
- (c) The person's professional license number, if any, and telephone number.

(5) The statement of physical or mental history shall include all of the following information pertaining to the applicant or licensee:

- (a) The person's full name, address, and date of birth.
- (b) The date of the report.
- (c) The date of examination.

(6) The statement of physical or mental history shall contain the following information as it pertains to the current ability of the applicant or licensee to safely operate a motor vehicle:

- (a) The diagnosis, age of onset, prognosis, and prescribed treatment or plan of therapy.
- (b) Prescribed medications.
- (c) The person's compliance with and response to treatment, therapy, or medication.
- (d) Any adverse or other reaction to treatment, therapy, or medication.
- (e) The results of the examination.

- (f) The signature of the applicant or licensee on a release or waiver authorizing the use of the information by the department only for the purpose of assisting in evaluating the person's ability to safely operate a motor vehicle.
- (g) Any other information required by these rules.
- (7) A statement of physical or mental history may include an evaluation of the effect of the condition and treatment, therapy, or medication upon the person's ability to operate a motor vehicle and a recommendation for licensure restrictions or special limitations.
- (8) If the statement is completed by a psychologist or neuropsychologist and the applicant or licensee is taking prescribed medication for the treatment of his or her condition or for any other reason or condition known to the psychologist or neuropsychologist, the statement shall also be signed by the physician who prescribed the medication.
- (9) The department may request the applicant or licensee to provide additional information concerning his or her current ability to safely operate a motor vehicle, including additional medical information when appropriate.
- (10) The department may require, as a condition for or a restriction upon a license, that a licensee submit statements of physical or mental history periodically during the duration of a license or indorsement or upon submission of an application for an operator's or chauffeur's license or indorsement.
- (11) A licensing action taken by the department on the basis of a physical or mental condition or disability will be reassessed by the department upon receipt of new medical evidence and documentation that the condition or disability has changed or abated or no longer exists.
- (12) All records and information received or secured pursuant to these rules shall be kept confidential and shall be used only for the purpose of assisting in evaluating a person's ability to safely operate a motor vehicle.
- (13) Disclosure of the contents of any document or other information received pursuant to these rules by any employee of the department for any reason other than assisting in the evaluation of a person's ability to safely operate a motor vehicle may be grounds for disciplinary action.

R 257.854 Episodic and other conditions.

Rule 4. (1) An applicant or licensee who has experienced an episode shall be denied an operator's license or chauffeur's license or any indorsement or shall have his or her license or indorsement indefinitely suspended after reexamination until her or she submits a recent statement of physical or mental history.

(2) For an operator's license or motorcycle indorsement, the statement of physical or mental history shall include either of the following:

- (a) Certification that the person's condition is under control by medical or other treatment and that all symptoms or conditions which would affect the safe operation of a motor vehicle have been corrected, cured, or controlled or have abated for not less than 6 months.
- (b) Certification that the person has not had an episode within the previous 6 months.

(3) For a chauffeur's license or indorsement to operate a truck or bus, the statement of physical or mental history shall include either of the following:

- (a) Certification that the person's condition is under control by medical or other treatment and that all symptoms or conditions which would affect the safe operation of a motor vehicle have been corrected, cured, or controlled or have abated for not less than 12 months.

(b) Certification that the person has not had an episode within the previous 12 months.

(4) The 6-months or 12-month period may be reduced or eliminated based upon a departmental review of the specific recommendation of a qualified physician or any other information which may come to the department, including evidence that the episode resulted from medical intervention or medically supervised experimentation with prescribed medication, as well as the evaluation of other evidence. The department may issue a limited or restricted license or indorsement.

R 257.855 License Restrictions

Rule 5. (1) The department may require an applicant or licensee who wishes to receive or retain an unrestricted license to demonstrate his or her ability to safely operate a vehicle.

(2) Notwithstanding any other provision of these rules, when an operator's or chauffeur's license or any indorsement is issued, restored, or retained, the license or indorsement may include reasonable restrictions which are necessary for the safe operation of the type of vehicle the person is authorized to operate.

R 257.856 Right to appeal.

Rule 6. A person who is aggrieved by a final decision of the department involving the application of these rules may appeal as provided in the act.

R 257.857 Written notice.

Rule 7. A person who is affected by an action under these rules shall be given written notice of that action by first-class mail. Notice shall be sent to the person at his or her mailing address currently on file with the department or shall be personally served.