



**AMERICAN ACADEMY OF NEUROLOGY
POSITION STATEMENT ON PHYSICIAN REPORTING
OF MEDICAL CONDITIONS THAT MAY AFFECT DRIVING COMPETENCE
September 2006**

Preamble

The American Academy of Neurology (AAN) represents over 19,000 neurologists and neuroscience professionals, many of whom have patients for whom driving is an uncertain privilege due to the progression of diseases that affect cognition, consciousness, vision or motor skills. Physicians are expected to report a patient's driving-related condition to driving authorities when it appears that the condition might pose a safety risk to the patient or others, especially when a patient is non-compliant with requests to be tested or stop driving. Making reporting a mandatory requirement, however, may have a strongly negative impact upon the patient-physician relationship, and may ultimately provide no greater safety benefits to the public or the patient, who may feel compelled to withhold important medical information. Poorly designed reporting laws may also expose physicians to undeserved liability for a patient's driving outcomes, even when a physician has followed all applicable laws honestly and capably. For these reasons and more, the AAN has developed a new position statement to promote better policies for all parties involved in the discussion: patients, private citizens, and physicians alike.

Relevant contemporary political and legal issues

Driving laws for individuals with relevant medical conditions vary greatly from state to state. Current or would-be drivers with medical conditions of interest are expected to disclose their condition to the state Department of Motor Vehicles (DMV) and to obtain a physician's note to confirm their fitness to drive. Many of these conditions (but not all) are neurological in nature, such as dementia, epilepsy and Parkinson's disease.

On a discretionary or mandatory basis, a physician may be obligated to report a patient to the DMV when that patient's medical condition makes driving a hazardous proposition. According to the Epilepsy Foundation, six states currently have some form of mandatory-reporting law in place (California, Delaware, Nevada, New Jersey, Oregon, and Pennsylvania) for various medical conditions.¹ Oregon substantially revised its statutes in recent years, while California and Florida, respectively, have

¹ "Driving: Physician Reporting." Epilepsy Foundation, 2005. Retrieved on August 7, 2006. Available online at <http://www.epilepsyfoundation.org/answerplace/Legal/transit/drivelaw/driverdrreport.cfm>.

sought to reform or implement mandatory-reporting requirements. Most states, however, give physicians the discretion to choose whether to report a patient whose condition requires additional consideration by a state driving official.

The majority of states have full legal immunity in place for physicians who observe all applicable laws in good faith (Iowa and New Mexico, for example).² In some states (such as Arkansas and Georgia), physicians may be at risk of lawsuit for reporting a patient with questionable driving abilities, resulting in a suggested violation of patient-physician privilege.³ Likewise, a physician who chooses not to report a patient who appears to be a sound driver—based upon valid medical standards as well as the laws stipulated for that jurisdiction—exposes oneself to risk should that patient then cause an accident (Michigan and Montana, for instance).

Related positions taken by the AAN

In 1992, the AAN jointly issued a consensus statement (which was published in 1994) with the Epilepsy Foundation and the American Epilepsy Society concerning driver licensing and epilepsy.⁴ Key points included:

- Mandatory reporting by physicians is inappropriate in all cases involving epilepsy or similar conditions; patient self-reporting should be required upon seeking or renewing a license
- Reporting of patients (with immunity) is appropriate if the physician believes the patient poses a risk and has not self-reported
- Physicians should enjoy immunity for choosing to report or not report, so long as the decision is made in good faith
- Physicians should only be required to report patients to DMV and provide opinions to DMV related to the patient's medical condition, but not to determine the patient's license eligibility
- For epilepsy, a three-month seizure-free interval is appropriate (favorable and unfavorable modifiers noted)⁵
- Restricted licenses should be available
- States should have medical advisory boards designed to set driving standards, review individual cases, and assist the DMV in decisions about driving safety

² "Chapter 8: State Licensing Requirements and Reporting Laws." American Medical Association. *Physician's Guide to Assessing and Counseling Older Drivers*. May 2003. Retrieved on August 14, 2006. Available online at <http://www.ama-assn.org/ama1/pub/upload/mm/433/chapter8.pdf>.

³ Ibid.

⁴ "Consensus Statements, Sample Statutory Provisions, and Model Regulations Regarding Driver Licensing and Epilepsy" American Academy of Neurology, American Epilepsy Society, and Epilepsy Foundation of America. *Epilepsia*. 1994 May-Jun;35(3):696-705

⁵ Although the three-month standard continues to be supported by a majority of AAN members, the Academy supports continued research and surveillance to determine whether a three-month seizure-free interval is the best marker for reasonable driving safety for people with epilepsy.

The consensus statement also offered model legislation and regulations that mostly captured these key points. The language on a physician's decision not to report a patient did not include a "good faith" requirement to ensure the privilege was not abused. This may have been an accidental oversight, considering the requirement was laid out in the consensus statement itself.

The AAN has not participated in similar conversations regarding reporting requirements for other diseases. However, the AAN has a practice parameter guideline from 2000 that recommends that health professionals encourage people with mild dementia of the Alzheimer's type (DAT) to stop driving.⁶ At the same time, the presence of DAT alone does not constitute grounds for losing one's license.⁷

Statements from professional medical organizations and advocacy organizations

Medical specialists and patient advocacy groups have advanced a number of positions on reporting of at-risk drivers with medical impairments. The American Medical Association (AMA) issued a position statement in 1998 noting that physicians have a moral responsibility to report their patients' medical conditions in cases where (a) the condition poses a threat and (b) the patient is apparently disregarding the physician's advice not to drive. Physicians were split over this position, mostly over liability and privacy concerns. The next year, the AMA revisited this position and added that liability protections were needed to ensure physician safety for participating.^{8,9}

On the topic of mandatory reporting, the AMA held that "the physician's role is to report medical conditions that would impair safe driving as dictated by his or her state's mandatory reporting laws and standards of medical practice. The determination of the inability to drive safely should be made by the state's Department of Motor Vehicles." On the question of whether mandatory or permissive reporting is preferred, the AMA deferred to state medical societies. The AMA did note, however, that mandatory reporting could compromise a patient's perception of confidentiality and a doctor's sense of discretion, while permissive reporting leaves physicians with fewer procedural guidelines and a potentially greater risk of liability.¹⁰

⁶ "Practice parameter: Risk of driving and Alzheimer's disease (an evidence-based review): Report of the Quality Standards Subcommittee of the American Academy of Neurology." Richard M. Dubinsky, Anthony C. Stein and Kelly Lyons. *Neurology* 2000;54;2205-2211 Retrieved online on August 7, 2006. Available online at <http://www.neurology.org/cgi/reprint/54/12/2205.pdf>.

⁷ "Driving Safety and Dementia: A Focus on Communication." John C. Morris, M.D. Colloquium course guidebook, AAN. Retrieved online on August 7, 2006. Available online at http://www.aan.com/professionals/patient/pdfs/colloquium_syllabi_06.pdf.

⁸ "CEJA Report 1 – I-99: Impaired Drivers and Their Physicians" American Medical Association, committee report, 1999. Retrieved online on August 8, 2006. Available online at http://www.ama-assn.org/ama1/pub/upload/mm/369/ceja_1i99.pdf.

⁹ In a recent survey sponsored by the National Highway Transportation Safety Administration, state licensing representatives noted physician immunity from civil liability among the top five medical oversight components of importance ("Summary of Medical Advisory Board Practices in the United States." Lococo, K., & Staplin, L., 2003. NHTSA Publication: DTNH22-02-P-05111.)

¹⁰ Ibid.

In 2000, the Committee on Bioethical Issues of the Medical Society of the State of New York (MSSNY) issued a report on physician reporting requirements.¹¹ MSSNY agreed with the AMA's assertion of an ethical obligation for physicians to report patients whose driving poses a threat to safety, and said that every effort should be made to protect a patient's confidentiality (for example, asking the DMV to retest a driver without naming the condition that has prompted the inquiry). MSSNY also endorsed the use of mandatory reporting for extremely risky conditions, provided the state gives careful consideration to each case, and called for physician immunity for reporting and non-reporting of a patient's relevant medical conditions when done in good faith.

MSSNY also called attention to two important reform-minded issues related to physician reporting. First, more research and planning are needed to help state officials evaluate the road safety of drivers with medical conditions. Recent publications confirm that the typical DMV battery of road and vision tests shed inadequate light upon the road-worthiness of a tested driver, and that more sophisticated systems need to be introduced and refined to deliver a better indication of a driver's acumen. Specifically, lapses of consciousness call for evaluation methods to determine future likelihood of relapse, while the evaluation methods for dementia might include cognitive tests, simulated driving assessments, and on-the-road evaluations by specially trained health professionals.¹²

Second, MSSNY noted that state agencies need to do more to ensure transportation alternatives for people who no longer possess driving privileges as a result of these laws. Indeed, a lack of access to alternative transportation is a major problem for persons with medical conditions that affect driving. A recent survey of people with epilepsy showed a significant lack of transit availability: while 49 percent of respondents said public transportation was available in their area, 66 percent said they were legally unable to drive.¹³ Proper access to alternative transportation should be ensured through whatever mechanisms are deemed locally appropriate to promote stronger quality of life.

Several advocacy organizations have staked positions on mandatory reporting. Both the Epilepsy Foundation and American Epilepsy Society worked with the AAN to develop the consensus statement mentioned earlier, and continue to oppose mandatory reporting. The Alzheimer's Association has remained neutral on

¹¹ "Reporting by Physicians of Impaired Drivers and Potentially Impaired Drivers." Jeffrey T Berger, MD, Fred Rosner, MD, Pieter Kark, MD, Allen J Bennett, MD, and for the Committee on Bioethical Issues of the Medical Society of the State of New York. *J Gen Intern Med*. 2000 September; 15(9): 667-672. Retrieved online on August 8, 2006. Available at <http://www.pubmedcentral.gov/articlerender.fcgi?tool=pubmed&pubmedid=11029682>.

¹² "Chapter 9: Safe and Unsafe Driving" *Principles and Practice of Behavioral Neurology and Neuropsychology*. Matthew Rizzo, MD. and Paul Eslinger, Ph.D. W.B. Saunders, 2004.

¹³ L Vogtle, written communication, August 17, 2006.

mandatory reporting, ¹⁴ pending review of the impact of such policies upon patients and families. ¹⁵

Additional points of consideration

A key concern about mandatory reporting is its impact on patients' openness in disclosing important medical information. Mandatory reporting has the potential to hinder physicians' efforts to provide good care and evaluate a patient's potential safety as a driver. A 2003 AAN study revealed that in California (a state with mandatory reporting) nine percent of patients surveyed with seizures said they had concealed relevant information from their physicians. Fifty percent of patients who had experienced a previous license suspension admitted to hiding relevant information from their physicians, compared with 16 percent of patients who had not experienced a previous suspension. ¹⁶

A 1992 survey revealed comparable concerns about the flaws with mandatory reporting. Sixteen percent of respondents said they would not disclose a breakthrough seizure to their physician under mandatory reporting, compared to 4 percent under an optional-reporting system. Mandatory reporting may provide better compliance with driving regulations: 67 percent of respondents would observe all licensing laws under mandatory reporting, compared to 47 percent under optional reporting. However, under mandatory reporting, patients were six times more likely to compromise their own medical care in order to drive illegally (49 percent versus 8 percent), serving neither the public nor the patient's safety interests. ¹⁷

Commercial drivers or people who provide professional driving services may also require stricter driving and reporting standards. In stating its position on reporting laws, the Epilepsy Foundation noted: "... a blanket denial of commercial licenses to all persons who have ever had epilepsy is inappropriate. Regulations governing commercial licensing should provide for an individualized determination of a licensee's or applicant's fitness to drive and the circumstances of his employment." ¹⁸ While the AAN would agree that an automatic-denial policy on commercial driving is excessive, a higher standard of scrutiny remains appropriate: these drivers spend more time on the

¹⁴ "Driving." Alzheimer's Association, October 2001. Retrieved on August 8, 2006. Available at http://search.alz.org/Advocacy/downloads/statements_driving.pdf.

¹⁵ S. McConnell, Alzheimer's Association, written communication, August 18, 2006. The Alzheimer's Association's National Ethics Advisory Panel recommended in 1998 that they oppose mandatory reporting, expressing concern that doctor-patient confidentiality might be compromised, and that patients might withhold important medical information for fear of losing one's license. For reasons already noted, the full Association did not adopt the Panel's recommendation.

¹⁶ "Mandatory Reporting of Seizures Can Have Negative Impact" K Rodrigues, MD and R.S. Fisher, MD. American Academy of Neurology press release, April 2, 2003. Retrieved on August 9, 2006. Available online at <http://www.aan.com/press/press/index.cfm?fuseaction=release.view&release=133>.

¹⁷ "Epilepsy, Driving Laws, and Patient Disclosure to Physicians." M.C. Salinsky, K. Wegener, and F. Sinnema. *Epilepsia*, 33(3); 469-472, 1992.

¹⁸ "Driver Licensing." Epilepsy Foundation, 2005. Retrieved on August 9, 2006. Found online at <http://www.epilepsyfoundation.org/advocacy/govaff/pp5.cfm>.

road, must sometimes transport hazardous cargo, and provide transit to tens of persons at one time.

In discussing this issue, some terminology may need to be changed to reflect a more exact understanding of the facts of the situation. "Loss of consciousness" is a particular example: not all neurological conditions that impact one's driving ability involve a loss of consciousness. Terms such as "neurological events that impair driving" or "episodes of altered consciousness or loss of bodily control," which have been used in other texts, may be more appropriate.

Finally, many medical conditions that call for closer driver scrutiny are not neurology-specific. Conditions such as arrhythmia and diabetes have also been mentioned in statute (in Massachusetts, for example) and are under close consideration by the Federal Motor Carriers Society of America (FMCSA). This topic deserves wider input from the healthcare community to ensure that the full array of medical concerns is brought to the table.

AAN Position

The American Academy of Neurology (AAN) represents over 19,000 neurologists and neuroscience professionals, many of whom have patients for whom driving is an uncertain privilege due to the progression of diseases that affect cognition, consciousness or motor skills. Physicians are expected to report a patient's driving-related condition to driving authorities when it appears that the condition might pose a safety risk to the patient or others. Making reporting a mandatory requirement, however, can have a strongly negative impact upon the patient-physician relationship, and may ultimately provide no greater safety benefits to the public or the patient, who may feel compelled to withhold important medical information. Poorly designed reporting laws may also expose physicians to undeserved liability for a patient's driving outcomes, even when a physician has followed all applicable laws honestly and capably.

The AAN has adopted the following principles regarding physician reporting of medical conditions that may impair driving:

1. The AAN supports optional reporting of individuals with medical conditions that may impact one's ability to drive safely, especially in cases where public safety has already been compromised, or it is clear that the person no longer has the skills needed to drive safely.
2. The AAN restates its support for the 1994 consensus statement, with the following updates:
 - "Prior bad driving record" does not need to be included as an unfavorable modifier to the 3-month seizure-free period, since it is not a medical consideration.

- Sleep deprivation should not be a cause for exception to the 3-month seizure-free period.
 - A road test should not be required for determining one's fitness to drive due to seizures, unless other relevant medical conditions (such as cognitive impairment) are in question.
 - Cognitive and psychomotor effects stemming from the use of anti-epileptic drugs (AEDs) should be carefully evaluated in all patients with seizure disorders who intend to drive.
3. The AAN supports the development and promotion of better evaluation tools to assess driver safety, both in terms of helping physicians recognize when a driver should be referred for evaluation, and assisting state officials to conduct such an evaluation. Such training and tools should be developed in cooperation with state transportation officials and other medical expert groups, to include physician and patient organizations.
 4. The AAN supports stricter driving and reporting standards for people who provide professional driving services, especially public transportation or hazardous-material drivers.
 5. The AAN supports clarification of physician-immunity policies, to make it apparent that a physician should be granted immunity both for reporting and not reporting a patient's condition when such action is taken in good faith, when the patient is reasonably informed of his or her driving risks, and when such actions are documented by the physician in good faith.
 6. The AAN supports state and federal efforts to plan for additional transportation resources to meet the needs of affected patients who are no longer able or allowed to transport themselves.
 7. The AAN encourages physicians to review the applicable driving laws in their area with their patients, and to discuss and document their medical recommendations with their patients.
 8. The AAN encourages collaboration with other specialties to participate in this ongoing discussion to improve public safety and to ensure patients' privacy rights and driving privileges are broadly respected.

Approved

State Affairs Committee ~ September 18, 2006

Executive Committee ~ September 21, 2006

Board of Directors ~ October 16, 2006 by e-mail vote (Policy 2006-59)

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