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TITLE: Medically Impaired Drivers: An Evaluation of California Policy (Senate Bill 2033 - Garcia)

DATE: September 1978

AUTHOR(S): Mary K. Janke, Raymond C. Peck, & Dell R. Dreyer

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PROJECT OBJECTIVE:

To evaluate the Department's licensing policies and practices relative to drivers with mental or physical conditions which might affect their ability to drive safely.

SUMMARY:

Under existing law at the time of writing, DMV may not issue or renew the driver's license of a person who is unable to operate a motor vehicle safely on the highway because of lapses of consciousness or other disorders. SB 2033 mandated the Department to evaluate its licensing policies and practices relative to drivers with disabling medical disorders, and to determine whether these policies were justified on traffic safety grounds or whether they were arbitrary and discriminatory. The study was defined by SB 2033 to include reviews of traffic safety and medical literature, collection of data on the accident involvement rate of drivers with disabling mental or physical conditions, evaluation of the justifiability of then-current DMV practices with regard to such persons, and evaluation of the Department's effectiveness in reducing the accident risk levels of drivers with mental or physical disabilities.

In order to hold the study to manageable size it was decided, first, to limit its scope primarily to cases in which a driver safety specialist (then called a Driver Improvement Analyst or DIA) was needed to judge the person's fitness to drive, as distinct from cases dealt with in the ordinary driver's license screening process. As explained in the report, cases evaluated reasonably well by the ordinary testing process include loss or functional impairment of limbs, impairment of mobility in the trunk or neck, and impairment of vision or hearing. If such conditions are permanent or continue over an extended period, they are readily recognizable by a driver's license examiner and may be the basis for either denial of a license or issuance of a restricted license. For non progressive disabilities, a driver's license was almost always issued by the license examiner if the subject could pass the standard written and drive test. Conditions which are transient, fluctuating, or progressive were usually referred to a DIA for investigation if they came to the attention of the Department. . Such referrals could result in an informal interview in which no action might be taken or, if deemed necessary, an administrative hearing before a DIA. License revocation or medical probation might be taken against the subject's driving privilege following the hearing.

Second, the study was limited to cases of discretionary actions on grounds of physical/mental (P&M) disability. Cases of mandatory action were excluded unless a discretionary P&M action was also taken against the subject. Such dual actions are relatively rare, and usually involve alcohol offenses. Physical and mental (P&M) disabilities which were considered at some length include: Neurological disorders which may cause lapses of consciousness or control, diabetes mellitus, cardiovascular or cerebral vascular disease, excessive alcohol use, excessive drug use (including drugs used as medication), and mental or emotional illness.

The report concludes that, because the accident rate of P&M drivers is substantially inflated over the population rate, differential licensing treatment for P&M drivers as a group is justified on traffic safety grounds. The Department's Legal Office further gave the opinion that, because of this higher accident rate, the Department has an affirmative duty to monitor and control the driving of this group. However, the Department's P&M program was found to be not entirely equitable, since there were other groups of drivers with even higher accident rates than P&M drivers who were not acted upon by the DMV until their driving records as individuals become extremely deviant.

Furthermore, some sub-categories of P&M drivers were acted upon more frequently or more harshly than others with, at best, dubious basis for this differential treatment. Analysis of the types of departmental actions typically applied revealed that cerebro- and cardiovascular patients and alcoholics tended to receive lenient licensing actions (no action or probation) while epileptics and patients with mental disorders tended to receive harsh licensing actions (suspension or revocation). This occurred despite the fact that, as a group, alcoholics are relatively high-risk drivers, while those with epilepsy and mental disorders are relatively low-risk groups. Also, the wording of the lapse-reporting law made epilepsy patients considerably more likely to be brought to the attention of the Department than were other P&M groups, and this could not be justified on the basis of their accident rate.

The report also concludes that medical probations requiring periodic medical reports are extremely expensive to operate and not justified on the basis of their effectiveness. It recommends that this type of probation be reserved for the most serious and recalcitrant of cases.

Overall, P&M programs were found to be expensive, to impact a very small number of drivers, and therefore not to represent an efficient allocation of departmental resources. The report accordingly makes several other recommendations involving streamlining of operating procedures to improve the cost-efficiency of these programs. It specifically recommends that the Department carefully consider the driving record of individual P&M drivers when selecting appropriate licensing actions, in conformity with its usual practice for other groups of deviant drivers.

#### IMPLEMENTATION STATUS OF FINDINGS AND RECOMMENDATIONS:

Study recommendations that were implemented include a reduction in medical probations requiring periodic medical reports, revision of medical reporting forms to include more comprehensive and relevant medical information, rewriting of departmental notices to be more understandable and less threatening in style, better explanations of the individual's due process rights, more efficient methods of processing P&M cases. The report had also recommended that the state's mandatory lapse of consciousness law not be repealed, but that the law be changed to allow physicians to report directly to the DMV. This recommendation was accepted by the Legislature for review. Much later (1990), and not as a result of this report, the law was amended to require local health officers to report morbidity information directly to DMV. Another recommendation, that DMV/ in cooperation with the Board of Medical Quality Assurance (BMQA), prepare an informational brochure for periodic distribution to physicians, was never fully implemented. However, three informational articles produced by DMV staff were published in the BMQA newsletter.

Development of an objective set of criteria for assessing risk in P&M cases was studied in Helander, Report #98, and an unnumbered 1989 report by Hagge and Stylos entitled "Development and Evaluation of a Risk Assessment Strategy for Medically Impaired Drivers-Detailed Analysis." Other unnumbered studies arising from the SB 2033 report and its recommendations were "Accident Records of Self-Reporting Medically Impaired Drivers"; Janke, 1980, and "Alcohol/Drug Abuse Question: Pre-Pilot Study"; Janke, 1980 (see Index of Publications by Principal Author).

The report had recommended that a Medical Advisory Board not be established "at the present time." None was at that time, but such a board was established in 1990. One of the board's assigned tasks was to assist the Department in formulating licensing guidelines for different medical conditions.

#### SUPPLEMENTARY INFORMATION:

In 1988, the reporting law (Health and Safety Code Section 410) was amended to specifically include Alzheimer's disease and related dementias as reportable conditions. Later legislation (SB 2328, chaptered in 1990) authorized local health officers to report directly to DMV (as mentioned above), authorized physicians to report any medical condition without liability, and required DMV to develop guidelines designed to enhance the monitoring of patients affected with reportable disorders.

An administrative review and survey of departmental policy on drivers with medical conditions (P&M cases) was completed in 1989 (Lockhart, C. *P&M Policy Identification and Review* [draft report], 1989).

A paper, "Reportable Medical Conditions and Driver Risk" by Mary K. Janke, was presented at an International Symposium, *Behavioral Factors that Determine Accident Rates*, held at Santa Monica, California, in May 1993. It was later published in *Alcohol, Drugs and Driving*, 9(3-4), 1993. It presents new evidence on conditions reported to the DMV by physicians, and the crash risk of medical impairment groups known to the department.