

280-RICR-30-05-3

## TITLE 280 – DEPARTMENT OF REVENUE

### CHAPTER 30 – DIVISION OF MOTOR VEHICLES

#### SUBCHAPTER 05 – LICENSING

##### PART 3 – Rules and Regulations Concerning the Medical Advisory Board

### 3.1 Authority

~~Authority.~~ The following Rules and Regulations are promulgated to administer R.I. Gen. Laws Chapters 31-28, 31-10 and 31-11 ~~of the Rhode Island General Laws~~, regarding eligibility for operator licenses and special parking privilege license plates, ~~and supercede any and all previous rules and regulations on this subject adopted heretofore.~~

### 3.2 Purpose

The purpose of these Rules and Regulations is to prescribe the conditions under which the Medical Advisory Board shall conduct its proceedings and make determinations and recommendations relative to eligibility for ~~handicapped~~ disability parking privileges, and/or the applicant's fitness to operate a motor vehicle.

### 3.3 Definitions:

A. ~~F~~for purposes of these Rules and Regulations the following definitions shall apply:

1. "Applicant" ~~means~~ means any party making application to the Division of Motor Vehicles for a ~~disability~~ handicapped parking privilege license plate, a license as an operator or chauffeur, or a special permit for operating a school bus.
2. "Blind" means any person whose central visual acuity of twenty over two hundred (20/200) or less in the better eye with best correction, or visual acuity of more than twenty over two hundred (20/200) if the widest diameter of the field of vision subtends an angle of no greater than twenty (20) degrees.

~~Physical Handicap: a permanent impairment which prevents or impedes walking, including an impairment which prevents walking and requires use of a~~

~~wheelchair, or which involuntarily caused difficulty or insecurity in walking or climbing stairs with or without the need to use braces, crutches, canes or artificial support; an impairment caused by amputation, arthritis or other orthopedic condition; or an impairment in respiratory, circulatory or neurologic health which limits the person's walking capability.~~

3. “Disabled” or “disability” means the definition given in R.I. Gen. Laws § 31-28-7.

4. “Licensee” means: any person who has received a license to operate a motor vehicle as an operator or chauffeur.

~~4. “Mental Handicap” means: a permanent impairment which is severe enough to render an individual incapable of safely operating a motor vehicle, or which significantly impedes his or her walking ability, including organic brain syndrome, manic depressive disorders (major affective disorders), schizophrenic disorders, severe anxiety disorders and any other illness in which there was a lapse of consciousness, blackout, or seizures.~~

### **3.4 Meetings of the Medical Advisory Board**

- A. The Medical Advisory Board created pursuant to ~~Rhode Island General~~R.I. Gen. Laws § 31-10-44, shall meet regularly, at such times and places as its members may select by majority vote, in order to review applications for ~~disability~~handicapped parking privileges, applications for a license as a motor vehicle operator or chauffeur, and medical evidence regarding the physical or mental fitness of the applicant or licensee to operate a motor vehicle, and to make recommendations thereon, or for any other lawful purpose for which its members may decide to meet.
- B. Notification of meeting times shall be sent to all members by the Office of Operator Control of the Division of Motor Vehicles.

### **3.5 Quorum Requirements**

- A. Whenever any meeting of the Medical Advisory Board shall be convened, a quorum shall consist of not less than four (4) members. The Medical Advisory Board may conduct its business and make recommendations on applications or medical records at any meeting in which a quorum of members is present.
- B. Minutes of the Medical Advisory Board meetings shall reflect the attendance of the Board.

### **3.6 Procedure for Review of Eligibility for Blind or ~~Handicapped~~Disability Parking Privileges**

- A. On behalf of the Medical Advisory Board, the Division of Motor Vehicles shall prepare and furnish an official application form, designated as such, to any person requesting parking privileges by reason of ~~physical or mental handicap~~disability. All information required to be furnished on the application form must be completed, or the application will not be accepted.
- B. Said application form shall be completed for the Applicant by a licensed physician or by a licensed optometrist, shall be signed by the physician or optometrist upon completion, and shall be mailed by the physician or optometrist directly to: Medical Advisory Board, Operator Control, 286 Main Street, Pawtucket, RI 02860. Supporting documents may be attached to the application by the physician.
- C. Any licensed group care facility that provides services to blind, ~~disabledhandicapped~~, or ambulatory ~~disabledhandicapped~~ persons may make application for special parking privilege portable license plates, which may be used only by agents or employees of the facility when transporting such persons who are in fact clients, residents or patients of such facility.
- D. Upon receipt of the Application, the Medical Advisory Review Board shall conduct a review of same as soon as practicable and shall forward the Board's recommendation on the Applicant to the Deputy Director of Motor Vehicles, or his designee, for official action.

### **3.7 Procedure for Review of Eligibility to Receive or Maintain a License or Permit**

- A. Whenever the Deputy Director for Motor Vehicles shall have sufficient cause to believe that a person is not able to safely operate a motor vehicle by reason of a ~~physical or mental handicap~~disability, an application for operator's privileges shall be refused and/or the operating privileges shall be suspended, pending the establishment of his/~~her~~ fitness to operate a motor vehicle. In the case of a suspension of an operating license or privilege, an official Order notifying the licensee of the effective date of the suspension shall be sent by regular mail to the last known address of the licensee by the Division of Motor Vehicles.
- B. On behalf of the Medical Advisory Board, the Division of Motor Vehicles shall prepare and furnish a medical evaluation form to any person whose application for an operator's license has been refused pending the establishment of physical and/or mental fitness to operate a motor vehicle or whose operating privileges

have been suspended pending the establishment of physical or mental fitness to operate a motor vehicle.

- C. Said medical evaluation form shall be completed by a licensed physician or optometrist, signed upon completion, and sent by the physician or optometrist directly to: Medical Advisory Board, Operator Control, 286 Main Street, Pawtucket, RI 02860.
  - 1. Supporting documents may be attached to the application by the physician or optometrist. Additional documents or statements may be submitted separately by the applicant/licensee.
- D. Upon receipt of the medical evaluation form, the Medical Advisory Board shall conduct a review of same as soon as practicable, and shall forward the Board's recommendation with respect to eligibility for an operator's license to the Deputy Director for Motor Vehicles, or his designee, for official action.

E. In reviewing license privileges after three (3) offenses for DWI or refusals, the following protocol shall be utilized:

- 1. The applicant must have evidence of treatment by a licensed professional (MD, PhD, MSW, Certified Alcohol Counselor) after the most recent offense.
- 2. A licensed professional shall certify that the applicant is reporting one (1) year of sobriety (the last drink or use of illicit substances was more than one (1) year ago), and that the examination done by the professional is consistent with that report.

### **3.8 Standards Applied in Evaluation of Applications or Records**

- A. In reviewing applications on medical reports and making recommendations thereon, the Medical Advisory Board shall evenly apply standards which reflect contemporary medical practices of the community.
- B. The Medical Advisory Board shall not discriminate against any applicant on the basis of gender, age, race, national origin or creed.
- C. The standards applied by the Medical Advisory Board shall be consistent with developments in the medical field that relate to eligibility for special parking privilege license plates, and fitness to operate a motor vehicle, and shall be consistent with the educational training, experience, and expertise of the members of the Board. Such standards shall recognize the technological advances in the rehabilitative field which may enable a ~~disabled~~handicapped

person to safely operate a motor vehicle by means of special adaptive equipment and training.

- D. In the case of an application for ~~disabilityhandicapped~~ parking privileges, the burden of proof shall rest with the applicant to demonstrate that he or she is ~~handi-capped-disabled, or ambulatory handicapped as defined in Rhode Island R.I. General Laws §, Section 31-28-7.~~
- E. In the case of a license suspension because of a ~~physical or mental~~ disability pursuant to ~~Rhode Island General R.I. Gen. Laws Section § 31-11-7(a)(5),~~ and the right to an administrative hearing is exercised by the licensee pursuant to ~~Rhode Island General R.I. Gen. Laws § Section 31-11-7(6),~~ good cause must appear for the Division to continue, modify, or extend the license suspension, or revoke such license.

### 3.9 Required Proof of Disability

- A. An applicant must produce sufficient proof of the ~~disabilityhandicap~~ for which he/she seeks parking privileges to satisfy the requirements of the Medical Advisory Board before an application will be recommended for approval.
- B. Sufficient proof of disability shall consist of a physician's or optometrist's certification on the application form that the applicant is ~~blind or physically-handicappeddisabled~~, as defined herein.- In the alternative, a physician may indicate on his or her professional letterhead, whether the applicant adequately meets the standard for a "~~disabilityphysically-handicapped~~" designation. Provided, however, that said letter must contain all relevant information requested by the Medical Advisory Board on the application and medical evaluation form.

### 3.10 Voting

- A. Voting concerning whether an applicant is entitled to ~~disabilityhandicapped~~ parking privileges by reason of some physical impairment, or is entitled to have operating privileges restored or approved, shall be by voice vote, and the majority vote shall be determinative of the official Board recommendation to be made to the Deputy Director concerning any application.

### 3.11 Medical Advisory Board Recommendations

- A. A decision on all applications submitted to the Medical Advisory Board shall be made within a reasonable time, from the date a completed application is received on behalf of the Board.

- B. The Board shall signify whether the application is approved or rejected on a space provided on the application form.
- C. All recommendations of the Board shall be final, and shall be forwarded to the Deputy Director for the Division of Motor Vehicles or his/her designated agent, by the Office of Operator Control.

### **3.12 Notice to Applicants**

Every decision made by the Deputy Director for Motor Vehicles, based on the recommendation of the Medical Advisory Board, shall be communicated to the applicant by an Official Notice, sent via regular mail by the Division of Motor Vehicles to the applicant's address, as listed on the application. Notification of the procedures to be used to appeal such a decision shall also be sent to the applicant with the official Order whenever a license has been denied or suspended for medical reasons or when disabilityhandicapped parking privileges have been denied.

### **3.13 Appeal Procedures**

- A. Any person whose license has been suspended on physical fitness grounds or whose application for disabilityhandicapped parking privileges, operating privileges as an operator or chauffeur, or for a special bus permit, has been denied, and who has received an Official Notice of such decision, may request a hearing to appeal such denial or suspension by filing a written request for a hearing within twenty (20) days of the date of the Official Notice. Hearing requests shall be sent to the Division of Motor Vehicles, Operator Control, 286 Main Street, Pawtucket, RI 02860.
- B. Upon receipt of a timely request for a hearing on such a license suspension or a denial of an application for operating privileges and/or special parking privilege license plates, the Office of Operator Control shall schedule a hearing, to be held within twenty (20) days of the receipt of such request, and shall provide notice of the hearing time and date to the party requesting the hearing via regular mail.
- C. At the hearing on the appeal, the burden of proof shall be on the appellant to show by a preponderance of ~~the~~ evidence that the Medical Advisory Board's decision on such application or suspension was erroneous in light of the reliable medical evidence and documentation provided as a part of the application or appeal.
- D. The hearing on the appeal shall be conducted by an agent of the Division of Motor Vehicles, who shall record or summarize the basis of the appeal, and then forward the same to the Medical Advisory Board for further consideration if

additional evidence has been submitted for review, or to the Deputy Director for Motor Vehicles if no additional evidence has been submitted.

- E. The Medical Advisory Board shall review the record on any appeal remanded to it by the Hearing Officer, and shall issue a recommendation on the appeal to the Deputy Director for Motor Vehicles, or his/her designated agent. After the Board's recommendation on any such appeal has been reviewed, or when the Deputy Director makes a determination on Appeals directed to him/her, a final decision shall be sent by regular mail to the applicant/appellant.
- F. Any party aggrieved by a decision of the Deputy Director for Motor Vehicles may bring an appeal to the Sixth Division District Court in the manner provided by the Administrative Procedures Act, ~~Rhode Island General~~R.I. Gen. Laws ~~Section §~~42-35-1, *et seq.*

### 3.14 Severability

If any provision of these Rules and Regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of these rules and regulations are declared to be severable.

### ~~Effective Date~~

~~These Rules and Regulations shall become effective twenty (20) days after filing with the Office of Secretary of State.~~

### ~~I. AUTHORITY~~

~~Pursuant to the provisions of 31-10-44 (b) of the General Laws regarding the Medical Advisory Board.~~

### ~~II. PURPOSE~~

~~(a) These Rules and Regulations are being promulgated to assist board members in determining standards relative to the issuance or denial of licenses on the grounds of physical and mental fitness.~~

~~(b) These Rules and Regulations implement Title 31, Chapter 10, Section 44 of the Rhode Island General Laws and the amendments thereto.~~

#### ~~IV. — EFFECTIVE DATE~~

~~These Rules and Regulations shall become effective twenty (20) days after filing at the Office of the Secretary of State.~~