

SUMMARY

Currently, physicians and surgeons in California are required to report any patient with a disorder characterized by lapses of consciousness. This includes seizure disorders, Alzheimer's Disease and dementia, among other conditions. All states accept reports of unsafe drivers from physicians, but only six, including California, require physicians to report drivers who have medical conditions or functional impairments that may affect safe driving ability to the motor vehicle agency. In states without mandatory physician reporting it is the responsibility of the patient to inform the licensing agency.

Minimal data has been collected on the effects or effectiveness of mandatory physician reporting. One study found that mandatory physician reporting of epilepsy led to a decrease (from 96% to 72%) in patients reporting breakthrough seizures to their physicians. Another study of physicians' attitudes found that about 58% would not hesitate to report patients medically unfit to drive but almost 60% felt the physician-patient relationship is negatively affected by reporting. A survey of geriatricians and their dementia reporting practices found that while about 75% of geriatricians surveyed agreed physicians are responsible for reporting patients, almost 30% do not know how to report these patients to DMV.

According to the California Office of HIPAA Implementation, mandatory physician reporting (Health and Safety Code Section 103900) is not in conflict with the federal Health Information Portability and Accountability Act (HIPAA).

EXISTING CALIFORNIA MANDATORY PHYSICIAN REPORTING REQUIREMENTS

Health and Safety Code Section 103900

(a) Every physician and surgeon shall report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a case of a disorder characterized by lapses of consciousness. However, if a physician and surgeon reasonably and in good faith believes that the reporting of a patient will serve the public interest, he or she may report a patient's condition even if it may not be required under the departments definition of disorders characterized by lapses of consciousness.

Other key points in Health and Safety Code Section 103900:

- These reports shall be kept confidential.
- A physician and surgeon who reports a patient diagnosed as a case of a disorder characterized by lapses of consciousness pursuant to this section shall not be civilly or criminally liable to any patient for making any report required or authorized by this section.

DEFINITION OF DISORDERS CHARACTERIZED BY LAPSES OF CONSCIOUSNESSⁱ

According to the California Code of Regulations (Division 1, Chapter 4, Subchapter 2.5, § 2802), disorders characterized by lapses of consciousness means those medical conditions that involve: (1) a loss of consciousness or a marked reduction of alertness or responsiveness to external stimuli; **and** (2) the inability to perform one or more activities of daily living; **and** (3) the impairment of the sensory motor functions used to operate a motor vehicle.

Examples of medical conditions that do not always, but may progress to the level of functional severity described in the above subsection of this section include Alzheimer's disease and related disorders, seizure disorders, brain tumors, narcolepsy, sleep apnea, and abnormal metabolic states, including hypo- and hyperglycemia associated with diabetes.

REPORTING REQUIREMENTS OF OTHER STATES AND COUNTRIES

All states accept reports of unsafe drivers from physicians, but only six require physicians to report drivers who have medical conditions or functional impairments that may affect safe driving ability to the motor vehicle agency.

State with Mandatory Physician Reporting Requirement	Required to be Reported	Physician Immunity
California	Disorders characterized by loss of consciousness (including Alzheimer's disease and related disorders, seizure disorders, brain tumors, narcolepsy, sleep apnea, and abnormal metabolic states, including hypo- and hyperglycemia associated with diabetes)	Yes, if the condition is required to be reported.
Delaware	Loss of consciousness due to disease of the central nervous system	Available
New Jersey	Patients who experience recurrent loss of consciousness	Yes
Nevada	Epilepsy	No
Oregon	Cognitive or functional impairments that are severe and/or uncontrollable to a degree that may preclude safe operation of a motor vehicle and are not correctable by medication, therapy, surgery, driving device or technique	Primary care providers are exempt from liability for reporting.
Pennsylvania	Any person over the age of 15 diagnosed with any of the specified disorders or disability defined by the Medical Advisory Board that could impair the ability to drive safely, as well as any other condition, which, in the opinion of the provider, is likely to impair the ability to control and safely operate a motor vehicle.	Yes

Six of fifteen European Union countries have mandatory reporting by physicians of conditions that may pose a risk to driving.ⁱⁱ

PHYSICIAN REPORTING DATA

General

According to the Pennsylvania Department of Transportation's "Physician Reporting Fact Sheet" (dated 10/01) each year in Pennsylvania:

- Over 400,000 reports are submitted to the motor vehicle agency.
- Approximately 72% of these individuals have medical impairments significant enough to merit temporary or permanent recall of their driver's license.
 - 50% of these recalls are due to seizure disorders.
 - 16% of recalls are due to other neurological disorders.
- An additional 9% of physician reports result in restrictions placed on the individual's driving privilege.
 - 80% of these restrictions involve special equipment needs.
- 51% of these reports involve drivers under 45 years of age.

Physician Attitudes

One study of 523 Saskatchewan physicians' attitudes regarding medical fitness to drive foundⁱⁱⁱ:

- 57.6% of respondents do not hesitate to report patients medically unfit to drive.
- 59.5% felt the physician-patient relationship is negatively affected by reporting.

Epilepsy & Seizure Disorders

In a study of 158 patients with epilepsy^{iv}:

- Under patient reporting, 96% would inform their physician of a breakthrough seizure and 56% would report to the DMV.
- Under physician reporting, only 72% of patients who currently drive would inform their physician of a breakthrough seizure.
- An additional 9-17% of patients would continue to drive with a suspended license.
- In all, 53% would remain driving under patient reporting and 33% under physician reporting. The study goes on to note that: “with physician reporting, half of the illegally driving patients would have compromised their medical care, potentially increasing driving risk.”

In an Arizona study, the rate of seizure-related crashes did not significantly differ after Arizona reduced the seizure-free interval required to drive from 12 months to 3 months.^v

Dementia

Four hundred sixty-seven (467) geriatricians were surveyed regarding reporting patients with dementia^{vi}:

- More than 28% do not know how to report patients with dementia.
- More than 75% of all geriatricians agreed physicians are responsible for reporting patients.
- More than 86% would contact state authorities despite the objections of the patient.
- Almost 73% would contact authorities despite the objections of the patient’s family.

PATIENT REPORTING

All states have some form of patient reporting, which usually occurs at the time of license renewal in the form of a question about medical conditions. In states without mandatory physician reporting it is the responsibility of the patient to inform the licensing agency.

REPORTING AND THE HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

According to the Office of HIPAA Implementation, Section 103900 is not in conflict with the HIPAA. First, HIPAA “provides for the reporting of disease or injury [and is also] for the conduct of public health surveillance, investigation, or intervention. (45 C.F.R. § 160.203(c). Section 103900 fits into this category. In addition, HIPAA provides that “A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.” (45 C.F.R. § 164.512(a)(1).) The disclosures mandated by Section 103900 are required disclosures. (45 C.F.R. § 164.501 (definition of “required by law”); 45 C.F.R. § 164.501 (definition of “disclosure”).) Therefore HIPAA section 164.512(a)(1) applies, and this provision of California is not contrary to HIPAA.

ⁱ NOTE: Authority Cited: Sections 100275 and 103900, Health and Safety Code. Reference: Section 103900, Health and Safety Code.

ⁱⁱ Health and relicensing policies for older drivers in the European Union. White S, O’Neill D. Gerontology, 2000 May-Jun; 46(3): 146-52.

ⁱⁱⁱ Saskatchewan physicians’ attitudes and knowledge regarding assessment of medical fitness to drive. Shawn C. Marshall, MD; Nathalie Gilbert, MN. Canadian Medical Association Journal, June 15, 1999; 160(12): 1701-1704.

^{iv} Epilepsy, driving laws, and patient disclosure to physicians. Salinsky, MC, et al. Epilepsia, 1992, May-June; 33(3): 469-72.

^v Seizure-related motor vehicle crashes in Arizona before and after reducing the driving restriction from 12 to 3 months. Drazkowski, JF, et al. Mayo Clin Proc. 2003 Jul; 78(7): 819-25.

^{vi} Knowledge, attitudes, and practices of geriatricians regarding patients with dementia who are potentially dangerous automobile drivers: a national survey. Cable G, et al. Journal of American Geriatric Society. 2000 Jan; 48(1): 100-2.