

## Driving and You

### **Can you drive an automobile if you have epilepsy?**

***Yes, if your seizures are controlled with treatment and you meet the licensing requirements for driving privileges in your state.***

How long you have to be free of seizures varies in different states, but it's most likely to be between three months and a year. Some states don't count seizures that only take place during sleep, don't impair consciousness (commonly called auras), or are preceded by a very long warning.

When you apply for a license, some states may require your doctor to send a letter to the Department of Motor Vehicles stating you are free of seizures and, in his or her opinion, can therefore drive safely if you meet your state's other driving requirements.

A few states require doctors to report people who have lapses of consciousness to the state. The Epilepsy Foundation opposes this regulation because it is not effective and interferes with the doctor-patient relationship. If your state has such a requirement, you may wish to ask your legislator to get it removed.

To help you find out what the rules are about epilepsy and driving in your state, we have provided a state-by-state listing.

Driving is a privilege with serious responsibility. You can help protect yourself and others as follows:

- If your doctor changes your medicine, don't drive until you know how the change is going to affect you.
- If you have a seizure, don't drive yourself to the doctor's office afterwards. If you need medical attention, call a friend or take other transportation.
- Don't drive if your seizure control isn't good enough to get a license, or if you start having seizures again after getting a license. Insurance may not cover you in an accident if you are driving illegally when it happens.

Alternatives to driving oneself include: public transportation, car pools, taxis, and special programs offering transportation to people whose disabilities make it impossible to drive.

There will also be times when you simply have to ask someone for a ride. If you are frequently dependent on certain people to provide transportation, see if there is some service you can perform in return so you will feel more comfortable about accepting their help.

## Driving With Epilepsy

Every state has driving laws for epilepsy.

### **Will I be able to get my driver's license?**

Yes, if you are not having any seizures that make you black out or lose control of what you're doing. How long you have to be seizure-free before you can drive depends on which state you are living in. The time ranges from three months to a year. You also have to make a real commitment to take your meds every day, on time, so you don't risk having a seizure on the road.

## **I've had a couple of seizures but I don't want to tell my doctor because I'm afraid I'll lose my license.**

If you don't tell the doctor, you're missing a chance to adjust your meds so you won't have more seizures. The bigger risk is that you'll have a seizure while driving. While it's tough not being able to drive for a while, you don't want to risk having a bad accident that hurts you or someone else.

## **If I lose my license because of seizures, can I ever get it back?**

Yes. Once you have been seizure - free (really seizure - free) for however long your state requires, you can re-apply and get your license back.

## **Driving & Epilepsy: Physician Issues**

### **Physician Immunity Laws**

While the confidential nature of the physician-patient relationship is of the utmost importance, there are circumstances in which the physician's obligation to his patient may be suspended. For example, physicians always retain the right to report patients they believe pose an imminent danger to the public.

Some state statutes specifically mention that physicians may voluntarily report persons whose condition would affect their ability to drive safely. Some specifically provide that physicians who report in good faith and exercise due care are immune from liability for their actions. Even when this is not explicitly provided for by law, courts generally find that physicians who exercise reasonable care in making these reports are immune from liability for their actions.

A number of state laws specifically give physicians immunity for their opinions and recommendations to the state DMV. Some provide "good faith" immunity and others provide immunity from suit.

### **Physician Liability Issues**

Few reported cases exist on the issue of physician liability to third parties for certifying a patient to drive. Those cases which have been brought suggest that the risk of liability is minimal.

Physicians should not be liable for their recommendations to the state DMV as long as their recommendations were arrived at in a reasonable manner, consistent with the prevailing standard of care. Some courts have refused to allow these cases to go forward for public policy reasons.

Some state laws provide protection by prohibiting the use of the physician's report in court proceedings other than those for the purpose of determining whether the patient should be licensed. Certain other state laws specifically grant "good faith" immunity to physicians.

Physicians should provide the warnings and advice that are required under prevailing standards of care. Patients who should not be driving or who should be driving only under certain circumstances should be so advised in writing. The physician should prepare a standard letter (or a form providing for specific variations) and, as a regular course of procedure, send it as a follow-up to the patient and "log" its dispatch. Patients should be warned of possible side effects of medications in connection with driving, the possible effect of discontinuing or reducing dosage of a drug, and any other warnings or advice that would normally be given. If the state has an explicit self-reporting requirement the physician should, as a precaution, call it to the patient's attention.

As long as the physician is using reasonable medical judgment and uses proper documentation, a third-party suit should not result in liability. In some jurisdictions, such a case will be immediately dismissed. If a physician has specific concerns, however, (such as a patient who is driving against medical advice) the physician may want to consult with an attorney.



# Resources

## Physician Reporting

Six states -- California, Delaware, Nevada, New Jersey, Oregon, and Pennsylvania -- currently have express mandatory physician reporting requirements. While the exact terms of these provisions vary, they generally state that any physician who diagnoses or treats a person with epilepsy must report that person's name, age, and address to a central state agency, usually the Department of Motor Vehicles or Department of Public Safety.

The variations in the requirements generally involve the circumstances under which persons must be reported, such as all persons with epilepsy, or only those whose condition interferes with their ability to drive, whether the intended use of the information is specified, and the penalty, if any, for failing to report. Monetary fines are the most common penalty for failure to report; however, Pennsylvania's law also states that a physician could be found negligent for failing to report a driver who was later in an accident.