

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H.B. 1098  
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HOUSE PRINCIPAL CLERK

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HOUSE DRH40125-RWz-23\* (02/25)

Short Title: DMV DL Medical Review Program Changes.

(Public)

Sponsors: Representative Torbett.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO THE DIVISION OF MOTOR VEHICLES DRIVERS  
3 LICENSE MEDICAL REVIEW PROGRAM, AS RECOMMENDED BY THE JOINT  
4 LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-9 reads as rewritten:

7 "§ 20-9. What persons shall not be licensed.

8 ...

9 (e) The Division shall not issue a driver's license to any person when in the opinion of  
10 the Division such person is afflicted with or suffering from such physical or mental disability or  
11 disease as will serve to prevent such person from exercising reasonable and ordinary control  
12 over a motor vehicle while operating the same upon the highways, nor shall a license be issued  
13 to any person who is unable to understand highway warnings or direction signs.

14 ...

15 (g) The Division may issue a driver's license to any applicant covered by subsection (e)  
16 of this section under the following conditions:

17 (1) The Division may issue a license to any person who is afflicted with or  
18 suffering from a physical or mental disability set out in subsection (e) of this  
19 section who is otherwise qualified to obtain a license, provided such person  
20 submits to the Division a certificate in the form prescribed in subdivision  
21 (2). Until a license issued under this subdivision expires or is revoked, the  
22 license continues in force as long as the licensee presents to the Division a  
23 certificate in the form prescribed in subdivision (2) of this subsection at the  
24 intervals determined by the Division to be in the best interests of public  
25 safety.

26 (2) The Division shall not issue a license pursuant to this section unless the  
27 applicant has submitted to a physical examination by a physician or surgeon  
28 duly licensed to practice medicine in this State or in any other state of the  
29 United States and unless such examining physician or surgeon has  
30 completed and signed the certificate required by subdivision (1). Such  
31 certificate shall be devised by the Commissioner with the advice of qualified  
32 experts in the field of diagnosing and treating physical and mental disorders  
33 as he may select to assist him and shall be designed to elicit the maximum  
34 medical information necessary to aid in determining whether or not it would  
35 be a hazard to public safety to permit the applicant to operate a motor  
36 vehicle, including, if such is the fact, the examining physician's statement



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1 that the applicant is under medication and treatment and that such person's  
2 physical or mental disability is controlled. The certificate shall contain a  
3 waiver of privilege and the recommendation of the examining physician to  
4 the Commissioner as to whether a license should be issued to the applicant.

5 (3) The Commissioner is not bound by the recommendation of the examining  
6 physician but shall give fair consideration to such recommendation in  
7 exercising his discretion in acting upon the application, the criterion being  
8 whether or not, upon all the evidence, it appears that it is safe to permit the  
9 applicant to operate a motor vehicle. The burden of proof of such fact is  
10 upon the applicant. In deciding whether to issue or deny a license, the  
11 Commissioner may be guided by opinion of experts in the field of  
12 diagnosing and treating the specific physical or mental disorder suffered by  
13 an applicant and such experts may be compensated for their services on an  
14 equitable basis. The Commissioner may also take into consideration any  
15 other factors which bear on the issue of public safety.

16 (4) Whenever a license is ~~denied~~ denied, cancelled, or restricted by the  
17 ~~Commissioner,~~ Commissioner based upon information received and  
18 reviewed in accordance with subdivisions (2) and (3) of this subsection, such  
19 ~~denial~~ the adverse action may be reviewed by a reviewing board upon  
20 written request of the applicant filed with the Division within 10 days after  
21 receipt of ~~such denial.~~ notice of the adverse action. The reviewing board  
22 shall consist of the Commissioner or his authorized representative and ~~four~~  
23 ~~persons designated by the chairman of the Commission for Public Health.~~  
24 two medical professionals, duly licensed to practice medicine in the State,  
25 selected by the Commissioner. The medical professionals selected by the  
26 Commissioner may be compensated for their services on an equitable basis,  
27 including reimbursement for ordinary and necessary travel expenses. The  
28 ~~persons designated by the chairman of the Commission for Public Health~~  
29 ~~shall be either members of the Commission for Public Health or physicians~~  
30 ~~duly licensed to practice medicine in this State. The members so designated~~  
31 ~~by the chairman of the Commission for Public Health shall receive the same~~  
32 ~~per diem and expenses as provided by law for members of the Commission~~  
33 ~~for Public Health, which per diem and expenses shall be charged to the same~~  
34 ~~appropriation as per diems and expenses for members of the Commission for~~  
35 ~~Public Health.~~ The Commissioner or his authorized representative, plus any  
36 ~~two of the members designated by the chairman of the Commission for~~  
37 ~~Public Health,~~ one of the medical professionals selected by the  
38 Commissioner, constitute a quorum. The procedure for hearings authorized  
39 by this section shall be as follows:

40 a. Applicants shall be afforded an opportunity for hearing, after  
41 reasonable notice of not less than 10 days, before the review board  
42 established by subdivision (4). The notice shall be in writing and  
43 shall be delivered to the applicant in person or sent by certified mail,  
44 with return receipt requested. The notice shall state the time, place,  
45 and subject of the hearing. A request for a hearing shall not stay any  
46 adverse action affecting the applicant following the review specified  
47 in subdivisions (2) and (3) of the subsection that the Division took in  
48 accordance with this subsection.

49 b. The review board may compel the attendance of witnesses and the  
50 production of such books, records and papers as it desires at a  
51 hearing authorized by the section. Upon request of an applicant, a

1 subpoena to compel the attendance of any witness or a subpoena  
2 duces tecum to compel the production of any books, records, or  
3 papers shall be issued by the board. Subpoenas shall be directed to  
4 the sheriff of the county where the witness resides or is found and  
5 shall be served and returned in the same manner as a subpoena in a  
6 criminal case. Fees of the sheriff and witnesses shall be the same as  
7 that allowed in the district court in cases before that court and shall  
8 be paid in the same manner as other expenses of the Division of  
9 Motor Vehicles are paid. In any case of disobedience or neglect of  
10 any subpoena served on any person, or the refusal of any witness to  
11 testify to any matters regarding which he may be lawfully  
12 interrogated, the district court or superior court where such  
13 disobedience, neglect or refusal occurs, or any judge thereof, on  
14 application by the board, shall compel obedience or punish as for  
15 contempt.

16 c. A hearing may be continued upon motion of the applicant for good  
17 cause shown with approval of the board or upon order of the board.

18 d. The board shall pass upon the admissibility of evidence at a hearing  
19 but the applicant affected may at the time object to the board's ruling,  
20 and, if evidence offered by an applicant is rejected the party may  
21 proffer the evidence, and such proffer shall be made a part of the  
22 record. The board shall not be bound by common law or statutory  
23 rules of evidence which prevail in courts of law or equity and may  
24 admit and give probative value to evidence which possesses  
25 probative value commonly accepted by reasonably prudent men in  
26 the conduct of their affairs. They may exclude incompetent,  
27 immaterial, irrelevant and unduly repetitious evidence. Uncontested  
28 facts may be stipulated by agreement between an applicant and the  
29 board and evidence relating thereto may be excluded. All evidence,  
30 including records and documents in the possession of the Division of  
31 Motor Vehicles or the board, of which the board desires to avail itself  
32 shall be made a part of the record. Documentary evidence may be  
33 received in the form of copies or excerpts, or by incorporation by  
34 reference. The board shall prepare an official record, which shall  
35 include testimony and exhibits. A record of the testimony and other  
36 evidence submitted shall be taken, but it shall not be necessary to  
37 transcribe shorthand notes or electronic recordings unless requested  
38 for purposes of court review.

39 e. Every decision and order adverse to an applicant shall be in writing  
40 or stated in the record and shall be accompanied by findings of fact  
41 and conclusions of law. The findings of fact shall consist of a concise  
42 statement of the board's conclusions on each contested issue of fact.  
43 Counsel for applicant, or applicant, if he has no counsel, shall be  
44 notified of the board's decision in person or by ~~registered-certified~~  
45 mail with return receipt requested. ~~In all other cases, a copy~~ A copy  
46 of the board's decision with accompanying findings and conclusions  
47 shall be delivered or mailed upon request to applicant's attorney of  
48 record or to applicant, if he has no attorney.

49 f. Actions of the reviewing board are subject to judicial review as  
50 provided under Chapter 150B of the General Statutes.

51 g. Repealed by Session Laws 1977, c. 840.

1                   h.       All records and evidence collected and compiled by the Division and  
2                   the reviewing board shall not be considered public records within the  
3                   meaning of Chapter ~~[section] 132-1, and following, 132~~ of the  
4                   General Statutes ~~of North Carolina~~ and may be made available to the  
5                   public only upon an order of a court of competent jurisdiction. All  
6                   information furnished by or on behalf of an applicant under this  
7                   section shall be without prejudice and shall be for the use of the  
8                   Division, the reviewing board or the court in administering this  
9                   section and shall not be used in any manner as evidence, or for any  
10                  other purposes in any trial, civil or criminal."

11                  **SECTION 2.** This act becomes effective October 1, 2014.