

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA



FILED  
OSAH

SEP 13 2016


RAMON VEAL,  
Petitioner,

v.

DEPARTMENT OF DRIVER SERVICES,  
Respondent.

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:  
:  
:  
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Docket No.:  
OSAH-DDS-MED-1645561-29-Brown  
Agency Reference No.: 056832181

  
Hazel Jackson, Legal Assistant

FINAL DECISION

I. INTRODUCTION

Petitioner Ramon Veal appeals the decision of the Department of Driver Services to revoke his driver's license pursuant to O.C.G.A. § 40-5-35. The hearing in this matter was originally scheduled for June 22, 2016, but was continued to allow Mr. Veal another opportunity to obtain a signed Medical Report from a neurologist and a physician indicating that he is able to drive safely. The evidentiary hearing was thereafter held on August 1, 2016 via telephone conference.<sup>1</sup> Petitioner represented himself during the hearing and Vicki Judd, Esq., Assistant General Counsel, represented Respondent. For the reasons given below, Respondent's action is **AFFIRMED**.

II. FINDINGS OF FACT

1.

Mr. Veal has diagnoses of epilepsy, diabetes, and seizures. *Exhibit R-3, R-10; Testimony of Ramon Veal.*

2.

On March 31, 2015, University of Georgia campus police officers were dispatched to the intersection of D.W. Brooks Drive and Cedar Street based on reports of a sick person. Upon arrival the officers observed Mr. Veal, who was in his car and apparently experiencing a seizure. Mr. Veal was non-responsive and the officers noted that his pupils were constricted and that his

<sup>1</sup> The evidentiary record remained open following the hearing to allow the parties to submit briefs. Mr. Veal filed his brief with the Office of State Administrative Hearings on August 11, 2016. Shortly thereafter, counsel for Respondent indicated to the Court that it would not file a responsive brief. Accordingly, the Court considers the evidentiary record to have closed on August 11, 2016.

“breathing was very shallow and labored.” Mr. Veal had on his wrist a medical alert bracelet with the inscription “Diabetes, Epilepsy on Insulin.” Students in the vicinity reported to the officers that they had observed Mr. Veal turn his vehicle onto Cedar Street, at which point he stopped his vehicle in the roadway, stuck his head out of the open window of his vehicle, and began shaking. They further reported that they had put Mr. Veal’s car in neutral, pushed it out of the roadway, and parked it on the side of the road. Campus police alerted emergency medical services. Shortly thereafter, emergency medical personnel arrived to the scene, stabilized Mr. Veal, and transported him to Athens Regional Medical Center (hereinafter “Athens Regional”) for further evaluation. *Exhibits R-2, R-3.*

2.

On or about April 9, 2015, Respondent received a “Request for Driver Review” (Form DDS-270). The reporter indicated on this form that he believed Mr. Veal should be evaluated by DDS based on the circumstances that led to his visit to the Athens Regional emergency department on March 31, 2015. *Exhibit R-1.*

3.

Respondent initially revoked Mr. Veal’s license in 2015 after he failed to return the documentation it requested, whereupon Mr. Veal requested a hearing. Respondent later rescinded its action because it immediately revoked Mr. Veal’s license, when it should have placed Mr. Veal’s license in “pending status” during the pendency of the hearing. Accordingly, the Office of State Administrative Hearings issued an order of dismissal.

4.

Respondent recommenced the revocation process by again requesting documentation from Mr. Veal in a letter dated February 19, 2016. Respondent notified Petitioner that it had received a report indicating he suffered from an impairment that “could potentially render [him] incapable of safely operating a motor vehicle.” Respondent requested that Petitioner have his physician complete a Medical Report—which was enclosed with the letter—and return it to Respondent within thirty (30) days. Respondent further advised Petitioner in this letter that his failure to comply within thirty days would result in the revocation of his driver’s license. *Exhibit R-4.*

5.

Based on its determination that Mr. Veal’s medical history indicated that he was not safe

to operate a motor vehicle and did not evidence that he had been free from episodes involving loss of consciousness for more than one year, Respondent issued an Official Notice to Mr. Veal informing him that, effective April 30, 2016, his driver's license would be revoked. The letter advised Mr. Veal that he could initiate a review of Respondent's decision by having his physician complete and submit a Medical Report, which was attached to the letter. Mr. Veal appealed Respondent's action on or about April 22, 2016. *Exhibits R-5, R-6.*

6.

Respondent's Driver's License Advisory Board conducted reviews of documentation pertinent to Mr. Veal's medical status on February 26, May 27, and May 30, 2016. During these reviews, three physicians of the Advisory Board considered (1) a copy of the UGA campus police incident report documenting the March 31, 2015 incident, (2) records of Mr. Veal's visit to the emergency department of Athens Regional, (3) a Medical Report completed by Mr. Veal's primary care physician on December 8, 2015, (4) records of a September 15, 2015 neurological exam, (5) an A1C test referenced in the December 8, 2015 Medical Report. *Exhibit R-8.*

7.

Based on their respective reviews, the members of the Advisory Board concluded that Mr. Veal was not medically safe to operate a motor vehicle. Specifically, Dr. Ned Holland, M.D., expressed concern over Mr. Veal's possible cognitive impairment, which, he opined, could impede his ability to ensure that his hypoglycemia was controlled before he operated a motor vehicle. Dr. Robert Bashuk concluded that Mr. Veal was not medically capable of safely operating a motor vehicle based on the results of the September 15, 2015 neurological exam indicating that Mr. Veal had cognitive impairment. Dr. Bashuk further noted that Mr. Veal had "a history of non[-]compliance, epilepsy and hypoglycemia." Based upon her review, Dr. Anna Mirk recommended that Mr. Veal not operate a vehicle without updated periodic evaluations. She further noted that the documentation in Mr. Veal's medical record did not evidence that he had been free from episodes of loss of consciousness since the March 31, 2015 incident. *Exhibit R-8.*

8.

Mr. Veal provided additional documentation to Respondent during the pendency of this proceeding, including (1) results of a comprehensive metabolic panel and hemoglobin A1C, (2) results of a June 28, 2016 neurological assessment, and (3) a letter from Dr. Nedsely Vila, MD,

his primary care physician, dated June 20, 2016. However, none of the documentation provided by Mr. Veal affirmatively indicated that he was safe to drive, or that he had suffered no episodes involving loss of consciousness within the past year. Indeed, the results of the neurological assessment indicated that Mr. Veal needed improvement in areas of “Memory”, “Executive Function (Training)”, and “Attention”. Further, Dr. Vila indicated in her letter that Mr. Veal “need[ed] to have medical clearance by [a] Neurologist regarding his seizure disorder history.” Accordingly, Respondent did not alter its original determination that Mr. Veal was not medically safe to drive. *Exhibits P-3, P4, P6, R-9, R-10.*

9.

On or about June 28, 2016, Dr. Eric Pitts, a neurologist, completed a Medical Report and submitted it to Respondent. In this report, Dr. Pitts indicated that he did not believe that Mr. Veal was medically capable of operating a motor vehicle because he had “concerns about the hypoglycemic events causing a loss of consciousness.” *Exhibit R-11.*<sup>2</sup>

### III. Conclusions of Law

1.

If Respondent determines that there is evidence to support an allegation that a licensee should not drive due to a physical or mental incapacity, Respondent “may at any time upon written notice to the licensee require the licensee to submit medical reports regarding his physical or mental condition to the Department for individual consideration by the Driver's License Advisory Board.” Ga. Comp. R. & Regs. 375-3-5-.09(2). The Driver's License Advisory Board may “make recommendations to [Respondent] regarding reinstatement or revocation of the driver's license . . . [or] request that further information be supplied by the physicians who forwarded medical reports to [Respondent], or that the operator submit to an examination by a medical specialist designated by the Board. . . . Ga. Comp. R. & Regs. 375-3-5-.09(3); see also O.C.G.A. § 40-5-34(c).

2.

After receipt of the Board's recommendation and any other pertinent information, Respondent “shall notify the [licensee], by mail, of the retention or reinstatement, retention or

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<sup>2</sup> The Medical Report authored by Dr. Pitts is admitted into evidence as *Exhibit R-11* subject to either party's objection within the ten-day period for reconsideration.

reinstatement with restrictions, or revocation of his [or her] driver's license.” Ga. Comp. R. & Regs. 375-3-5-.09(7). The licensee may thereafter request a hearing for the purpose of determining, based upon evidence presented at the hearing, if the licensee is competent to drive a motor vehicle. O.C.G.A. § 40-5-35(f). The licensee’s driving privileges shall not be revoked “unless [Respondent] shows that the driver had disorders characterized by lapses of consciousness or other mental or physical disabilities affecting his ability to drive safely.” O.C.G.A. § 40-5-35(f).

3.

Pursuant to Code Section 40-5-35(a)

The Driver License Advisory Board . . . shall define disorders characterized by lapses of consciousness or other mental or physical disabilities affecting the ability of a person to drive safely for the purpose of the reports required by this Code section, and the commissioner may use these definitions to promulgate regulations making such disorders and disabilities disqualifications, under certain conditions, for obtaining or keeping a driver's license for any class or classes of vehicles; provided, however, that a person shall not be disqualified from obtaining a noncommercial Class C driver's license for having had an episode of lapsed or altered consciousness due to epilepsy unless such an episode occurred within the immediately preceding six-month period.

O.C.G.A. § 40-5-35(a). Under Respondent’s regulations, “[e]pisodic alteration of consciousness, severe enough to cause [a] person to lose his postural attitude or to be unable to continue whatever action he was involved in, whether or not caused by disorders primary to the central nervous system” will subject that person to a review. Ga. Comp. R. & Regs. 375-3-5-.02(1). According to Respondent’s regulations, an episodic loss of consciousness “within the preceding year” is a disqualification for obtaining or keeping a driver’s license. Ga. Comp. R. & Regs. 375-3-5-.02(2)(b).

4.


In the present case, Mr. Veal endured an episode involving alteration of consciousness on March 31, 2015. Although this incident occurred more than one year prior to the date of adverse action giving rise to Mr. Veal’s appeal, Respondent was nonetheless authorized to revoke Mr. Veal’s license. The documentation on record supports the Advisory Board reviewers’ conclusion that Mr. Veal’s cognitive impairments, coupled with a condition that may cause loss of consciousness, adversely affect his ability to drive safely. Mr. Veal has produced insufficient competent evidence to rebut the Advisory Board reviewers’ findings. To date, Mr. Veal’s

providers have not submitted medical reports indicating that Mr. Veal is capable of driving safely or that he has not had an episodic loss of consciousness within the preceding year. Accordingly,

**IV. Decision**

**IT IS ORDERED** that Respondent's revocation of Mr. Veal's driver's license is hereby **AFFIRMED**. Nothing in this Final Decision shall prevent Respondent from reinstating Mr. Veal's driving privileges upon receipt of documentation evidencing that he has been free from episodic losses of consciousness during the preceding year and/or that his medical condition does not affect his ability to drive safely.

**SO ORDERED**, this 13<sup>th</sup> day of September, 2016.

  
**Barbara A. Brown**  
**Administrative Law Judge**

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

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Petitioner,	:	Docket No.: OSAH-DDS-MED-1645561-29-Brown
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DEPARTMENT OF DRIVER SERVICES,	:	
Respondent.	:	

**NOTICE OF FINAL DECISION**

This is the Final Decision of the Administrative Law Judge (Judge) in the case. This decision is not reviewable by the Referring Agency. If a party disagrees with this decision, the party may file a motion for reconsideration, a motion for rehearing, or a motion to vacate or modify a default order with the OSAH Judge. A party may also seek judicial review of this decision by the superior court.

**FILING A MOTION WITH THE JUDGE AT OSAH**

The motion must be filed within ten (10) days of the entry, i.e., the issuance date, of this decision. **The filing of such motion may or may not toll the time for filing a petition for judicial review.** See O. C.G.A. §§ 50-13-19 and 50-13-20.1. Motions must include the case docket number, be served simultaneously upon all parties of record, either by personal delivery or first class mail, with proper postage affixed, and be filed with the OSAH Clerk at:

Clerk  
Office of State Administrative Hearings  
Attn.: Hazel Jackson, [hjackson@osah.ga.gov](mailto:hjackson@osah.ga.gov)  
225 Peachtree Street, NE, South Tower, Suite 400  
Atlanta, Georgia 30303-1534

**PETITION FOR JUDICIAL REVIEW**

A petition for judicial review must be filed within thirty days (30) after service of this Final Decision in the Superior Court of Fulton County or in the superior court of the county of the appealing party's residence. If reconsideration or rehearing is requested and granted, then a petition for judicial review must be filed within thirty (30) days after service of that decision. O.C.G.A. §§ 50-13-19 and 50-13-20.1. If the appealing party is a corporation, the action may be brought in the Superior Court of Fulton County or in the superior court of the county where the party maintains its principal place of doing business. A copy of the petition must be served simultaneously upon all parties of record and filed with the OSAH Clerk. OSAH Rule 616-1-2-.39.