



# EPILEPSY & The Facts

## Driving and Epilepsy

### Does epilepsy disqualify you from driving?

It is important to note that having epilepsy does not automatically disqualify you from being legally permitted to drive in Ontario. In fact, many people with epilepsy do drive.

### When can you drive (a non-commercial vehicle)?

1. Your seizures appear to have been prevented by medication AND:
  - You have been free from seizures for 6 months and your medication does not cause drowsiness or poor co-ordination.
  - Your physician believes you are a conscientious patient who will take your medication responsibly and follow all of the physician's instructions carefully.
  - You are under regular medical supervision and your physician believes you will report any further seizure(s) to him or her at once.
2. You have had a single spontaneous seizure unrelated to any toxic illness and for which a full neurological examination reveals no form of epileptic activity.
3. You have had seizures ONLY during sleep, or immediately upon awakening for at least five years.
4. You have been seizure-free for at least six months and then have a seizure after decreasing medication under your physician's advice and supervision. You may drive once you have resumed taking your previous medication at the prescribed dosage.

### When can you not drive?

1. Within 6 months of your last epileptic seizure.
2. If you are presently taking anti-epileptic medication which causes you to experience drowsiness or poor muscle control.
3. If you require medication to prevent seizures but persistently drink alcoholic beverages to excess or do not comply fully with your physician's prescribed treatment.
4. Avoid driving for more than six hours at a time or at night or in rush-hour traffic and any alcohol, especially if you are taking anti-epileptic medication.



**5.** If you have had one or more epileptic seizures in adolescence or adult life, do not start or continue to drive before careful medical assessment.

## **What legislation governs driving and epilepsy in Ontario?**

Section 31 of the Highway Traffic Act states that driving is a privilege that is granted to and retained by those individuals who can drive safely. This is achieved by testing and medical requirements.

The Ministry of Transportation, pursuant to regulations under the Highway Traffic Act, is responsible for the Medical Review program. The Registrar of Motor Vehicles has the authority to request, collect and review medical information as required, and to make decisions regarding the suspension or reinstatement of driver's licenses for a variety of medical conditions, including epilepsy.

## **What is my obligation to the Ministry of Transport?**

On the back of your driver's license it states: "If you become physically or mentally disabled to an extent that might affect your safe operation of a motor vehicle notify the Ministry immediately."

## **Can my doctor report me to the Ministry of Transportation?**

Section 203 of the Highway Traffic Acts states that, "Every legally qualified medical practitioner shall report to the Registrar the name, address and clinical condition of every person sixteen years of age or over attending upon the medical practitioner for medical services, who in the opinion of such medical practitioner is suffering from a condition that may make it dangerous for such person to operate a motor vehicle". This statute overrides the normal rule of patient/physician confidentiality.

## **Does the doctor have the right to tell me not to drive?**

You are not officially suspended from driving until such time as you receive a 'Notice of Suspension' from the Ministry by registered mail. However, you may be held liable in civil court for any traffic accident if you have disregarded your physician's advice not to drive because you had not officially heard from the Ministry. You should check with your insurance company with respect to your coverage in such an event.

## **How does my doctor know if I am honest about my seizures?**

Your neurologist relies on you to disclose honest and comprehensive information about your seizure history. It is in your best interest to be truthful with your neurologist and thereby ensure the best possible treatment. There is a direct connection between the information you provide and the treatment you receive. If reporting your seizures to your doctor results in changes in lifestyle, remember that your health is a priority. Your neurologist will likely do blood level tests to see if the medication is in its therapeutic range. This may indicate absorption or compliance problems. Altered dosages or different medications may be prescribed, which will improve your seizure control.

## **What happens after the doctor sends in the report?**

You will receive a request from the Ministry to provide detailed medical information within a reasonable time frame or have your license suspended OR a notice of suspension with a letter of explanation.

The reply you receive depends on the information and level of detail submitted to the Ministry by the reporting physician. (Note: Hospital Emergency or clinic physicians also report individuals who have a condition which might interfere with safe driving. The Ministry evaluates these reports in exactly the same manner as one from your own physician.)

Usually, the Ministry requests further information in order to confirm that a suspension is warranted. Many people are reported as a result of the physician's initial observations (e.g. in Emergency Dept.); but after a thorough investigation, a suspension is not justified.

Note: Be careful about changing doctors during this process. The Ministry could perceive you as manipulating the truth of the matter. You will almost certainly be asked to explain any inconsistencies reported by different physicians before the Ministry allows you to drive.

## **Can I appeal the decision to suspend my license?**

YES! At any time during your suspension you have several options.

- The first is to submit further medical information. The letter of suspension will advise what is required in order to have the matter reconsidered. Discuss this option with your physician and get his/her opinion as to whether further medical information would be helpful in your case. He or she is often familiar with the Ministry's policies and guidelines regarding reinstatement of licenses when epilepsy is involved.

*Note: When your physician does submit information on your behalf, be sure to instruct him/her to provide all of the details of your condition, including history, treatment, compliance, control, and the results of any tests or investigations. The Ministry will not reinstate your license unless it has full disclosure of your condition and its stability.)*

- Secondly, you can discuss your suspension face-to-face with a Ministry of Transportation representative at an Administrative Review. This is your opportunity to provide in your own words any information you believe the Ministry either did not know or did not consider when making their decision. Call the Driver Improvement Office of the Ministry of Transportation at (416) 235-1773 or 1-800-268-1481 to arrange an appointment.
- Another option is to put your case down on paper, send it to the Ministry and ask for a reply. Be sure to state clearly in your covering letter that you want your written submission to substitute for attending an Administrative Review.
- If these steps are unsuccessful and you still believe the Ministry has erred in suspending your license, you may proceed to a more formal hearing before the License Suspension Appeal Board. At this hearing, you may present your case in writing, orally or with representation (e.g. a lawyer). To arrange an appeal date, contact the Ministry at 235-1773 for an application form. (Note: You must include a cheque or money order for \$25 payable to the Treasurer of Ontario in order to receive an application for the License Suspension Appeal Board.)
- If you are not satisfied with the decision of the Board, you may appeal to the Judge of the County or District Court where you reside. You will be responsible for any associated costs.

## **Must I inform the Ministry even if my condition is fully controlled?**

Yes. Epilepsy is recognized as a condition that may interfere with safe driving. Answering "Yes" does not mean that your license will automatically be suspended. If the Ministry does not have a file for you, however, they may request information regarding the date of your last seizure and your current medication.

## **Can I apply for or retain my current commercial driver's license?**

Applying for a commercial license entails completing a medical examination form. If you have fully controlled epilepsy or have had seizures in the past, you should expect to receive a supplementary request for a detailed neurologist's assessment.

Specific details about the history, treatment and current status of your epilepsy are critical in helping the Ministry to reach its decision, as each application is reviewed on its merits.

If you develop epilepsy while holding a commercial license, your condition must be reported to the Ministry at the time it is diagnosed. Your family physician will also, as a matter of routine, include this information in the Report of Medical Examination which must be completed for all commercial drivers every three years. Again, expect a supplementary request from the Ministry for a detailed neurologist's assessment.

### **Should I go on sick leave if my job requires a license?**

This is an issue you should discuss with your doctor. If he or she agrees, then short-term leave may be the best solution while searching for effective treatment of your seizures. Note that short-term leave will not guarantee re-instatement of your license; you must still be seizure-free for 6 months first.

Be aware also that short-term leave may cause unnecessary employer concerns about your ability to do your job on an ongoing basis. At work you can still perform the other functions of your job even if you can't drive. Other solutions include performing other tasks or exchanging duties with a co-worker.

It's important to remember that the Ontario Human Rights Code in its Guidelines for Assessing Accommodation Requirements for Persons with Disabilities requires your employer to accommodate you as an employee with a disability (epilepsy is classed as a disability) UNLESS you cannot perform the essential function of the job OR such accommodation causes "undue hardship" to your employer. In practice, this means an employer must make every effort to restructure your job so that you can remain on the payroll if you have lost your license through medical suspension. The onus, in law, is on the employer to prove that such adjustments are detrimental to the company.

### **What happens if I drive while my license is suspended?**

Remember that your name and details are entered in the police database at the time of suspension. If the police catch you driving, you will be charged with driving while under suspension. You could receive a fine of up to \$2000, an extended suspension, and go to jail. And should you have an accident, whether or not epilepsy precipitated the accident, you will likely find that your insurance has also been suspended. Consequently you will likely end up in civil court and face financial ruin. Check with your insurance company for details!

### **My driver's license is suspended but I just received my renewal notice. What should I do?**

If your license expires while you are suspended, save your money and wait until you get a notice of reinstatement. Then, renew your license. Don't delay applying for reinstatement of your license as soon as you have been seizure-free for 6 months, even if you don't need to drive right away. Ministry policy states that any driver who is unlicensed/suspended for more than three years must re-enter the system as a new driver and complete a written, vision and road test. This is an incentive to get your seizures under control as quickly as possible.

Note: If you move while suspended, report your new address to the Ministry within the required six days so that information regarding your suspension continues to reach you.

### **Can a doctor charge me for filling out the report form?**

Yes. A doctor can charge for filling out any reports on your behalf, even though he/she is required by law to do so. They are no longer covered under OHIP and the Ministry allows doctors to charge the patient.

### **Can Epilepsy Toronto help me get my driver's license back?**

No. However, we are able to help you understand the intricacies of "the system" and to provide advice about how and when to approach the Ministry, involve your neurologist and expedite the process. Also, if you are having difficulty arranging accommodation with your present employer or need to explore a career change because of the loss of your driver's license, please contact our Employment Consultant.

## **Who do I contact if I have any more questions?**

The following is a list of useful government agencies and consumer organizations which may be able to assist you with your own situation.

ADVOCACY RESOURCE CENTRE FOR THE HANDICAPPED	(416) 482-8255
LAW SOCIETY OF UPPER CANADA – LAWYER REFERRAL SERVICE	(416) 947-3330
MINISTRY OF TRANSPORTATION	(416) 235-1773
ONTARIO HUMAN RIGHTS COMMISSION	(416) 314-4500
ONTARIO INSURANCE COMMISSION	(416) 250-6750
ONTARIO LEGAL AID	(416) 598-0200
ONTARIO MINISTRY OF HEALTH	(416) 327-4327