

Time for Law to Catch Up With Life

The article by Mathiesen and Borch-Johnsen in this issue of *Diabetes Care* provides some interesting data on diabetes and accidents (1). The study authors conclude that the risk of accidents and permanent disability is not increased in people with diabetes and that the practice in Denmark (where the study was conducted) of charging people with diabetes more for accident insurance (we call it supplemental disability insurance in the U.S.) is wholly unwarranted.

In the U.S., we have not yet addressed the issue of disability insurance. Much more basic insurance and, for that matter, employment issues demand immediate attention.

One issue that has not received enough attention in recent years is that of providing a commercial drivers license (CDL) to individuals with insulin-treated diabetes mellitus (ITDM). Whereas in Denmark, people with diabetes face higher insurance premiums and limited coverage despite the lack of scientific support for this practice, individuals with ITDM in the U.S. are immediately disqualified for interstate CDLs despite an overwhelming lack of evidence to support the practice and a preponderance of evidence to support a policy of considering such individuals on a case-by-case basis.

This outdated regulation has its origins in the 1930s and was formalized in the 1970s. Despite the significant medical and technological advances made in managing diabetes, federal regulations continue to deny CDLs to people with ITDM. This discriminatory "blanket ban" flies in the face of the treatment procedures, medical technology, and self-management techniques that provide drivers with ITDM the opportunity to control their disease.

The invention of the portable blood glucose monitor in the mid 1980s probably provided the greatest advance in diabetes treatment since insulin. For the first time, people with diabetes could measure their blood glucose instantly and accurately, thus allowing people with diabetes to take the necessary steps to control their disease. Despite this advance and improvements in self-management education, insulin, insulin pumps, and injection devices, the blanket

ban remains based on the assessment of diabetes using "old medicine."

After 37 years, policy finally caught up with science for recreational pilots with ITDM. In November 1996 the Federal Aviation Administration overturned the archaic blanket ban on pilots with ITDM and began to issue licenses on a case-by-case basis. It is now time for the Department of Transportation to follow this lead and apply the same principle to commercial drivers.

Studies regarding insulin and driving are inconclusive and generally not applicable to the issue of commercial drivers with ITDM. First, the studies did not apply the rigorous screening process supported by the American Diabetes Association (ADA). Second, the studies were largely conducted before blood glucose monitors were available. Third, the studies have not involved commercial drivers.

Despite wildly varying study results, none of which apply directly to the issue of commercial drivers with ITDM, current policy is erroneously based on outrageous misconceptions. In fact, nothing has changed since an editorial in *Diabetes Care* pointed out nearly a decade ago that factors other than diabetes are much more significant predictors of traffic accidents (2). In the March 1989 issue, Thomas Songer wrote, "hypoglycemia, despite all its discussion, still remains only one part of the accident puzzle and probably only a very minor component. Many more important factors have been shown to be related to truck and automobile accidents. These include young age, male sex, mileage driven, alcohol impairment, previous accident and infraction history, defective vehicles, poor roads, and inexperience."

The fact is that individuals with ITDM are today driving safely throughout the U.S.. In light of this experience, there is no justification for the blanket ban by the federal Department of Transportation.

Many states are allowing individuals with ITDM to drive commercial vehicles within state boundaries. During the summer of 1997, the ADA canvassed all 50 states to determine the current status of intrastate commercial driving programs for insulin-treated individuals. All 50 states

responded, and 39 reported that they allow some commercial drivers with ITDM to operate in intrastate commerce. Not one of these states reported any problems with drivers with ITDM. Some states do, however, have interesting comments to make on their commercial truck drivers with ITDM.

The State of Oregon reports that their commercial drivers with ITDM are safer than commercial drivers as a whole. The preventable accident rate per million miles for diabetic drivers was 0.59 compared to 0.75 for all commercial vehicles in Oregon. Further, the traffic violation conviction rate (per 1,000 drivers per year) for diabetic-waiver drivers was 176.5 drivers compared to 256.0 for all Oregon commercial drivers.

Clearly the Oregon drivers with ITDM had safer records, but even more telling is the Oregon experience's applicability to interstate driving. Distances traveled within the state can match or exceed distances traveled in interstate commercial transport. For example, road mileage sometimes exceeds 550 miles. This distance is greater than a trip from Baltimore to Detroit, which includes travel in five states. This distance also exceeds trips from Chicago to Memphis or Buffalo.

Oregon is not the only large state where intrastate drivers with ITDM face conditions similar to interstate drivers. Many large states such as Montana, Idaho, Wyoming, New York, and Pennsylvania also license qualified drivers with ITDM. Given the large size of these states, many of the trips drivers make are as strenuous, if not more demanding, than those made by some interstate truck drivers. Yet none of these states report problems with drivers with ITDM. For instance, some routes in Montana exceed 750 miles. This distance is approximately equivalent to that from Portland, Maine, through ten other states to the Outer Banks of North Carolina. Driving this distance is also comparable to traveling from the banks of the Mississippi River to the beaches of the Atlantic Ocean (the distance from Memphis to Charleston is 756 miles).

Through the ADA's survey, other states reported successes similar to Oregon's. In Minnesota, the Director of the Office of Motor Carrier Services wrote that the ITDM

waiver program is working well and that it has helped the Department of Transportation achieve its primary goal of improving and ensuring safe transportation on Minnesota's highways. The Director also pointed out that diabetes is not cited as a factor in any of the few accidents involving commercial drivers with a waiver.

In Kansas, the Transportation Manager for the Kansas Corporation Commission has written, "[w]e are very satisfied with the [diabetes] waiver program.... We are not aware of any accidents in which our waiver drivers have been involved. We believe these waiver drivers quite possibly are more careful than the average drivers."

In Idaho, the Driver Services Manager of the Transportation Department has written, "[w]e are well aware that there are now many insulin-dependent diabetics safely operating commercial vehicles on our public roads."

Despite the federal blanket ban, states are beginning to implement laws that coincide with the current abilities of commercial drivers with ITDM to operate safely. In 1997, the states of Utah and Rhode Island passed legislation requiring the licensing of medically qualified commercial drivers with ITDM for intrastate commerce. These new laws come amid continued concern that the federal government could withhold funding if state regulations deviate from federal regulations.

The successful federal experience with commercial drivers with ITDM provides even more support for overturning the blanket ban. In 1993, the Federal Highway Administration (FHWA) embarked on an effort to evaluate the safety of commercial drivers with ITDM. In 1996, the FHWA released the results of the waiver programs: "The data have shown that the driving performance of this group of waived drivers

was and continues to be better than the driving performance of all CMV drivers collectively..." (3).

At the conclusion of the program, the diabetic drivers' accident rate for accidents in which one vehicle was towed from the scene was 0.783. The national rate was 0.911. The accident rate for the diabetic group was lower than the national rate, and none of the accidents involving the diabetic drivers were attributed to the driver's diabetic condition.

The FHWA subsequently granted grandfather rights to the drivers allowing them to continue to operate across state lines. Before the FHWA took this action, the agency received hundreds of positive comments regarding the diabetes program. Letters from the New Jersey Department of Transportation and the Utah Department of Public Safety in support of grandfathering the drivers summarize the success of the program.

"Our experience with these drivers is that, with high awareness of their unique circumstances, they are both especially careful as drivers and notably responsive to the requirements placed on them." (New Jersey Department of Transportation)

"[W]e agree with the Federal Highway Administration that allowing these individuals to continue to drive after March 31, 1996 is consistent with public interest and does not represent a substantial threat to public safety." (Utah Department of Public Safety)

The blanket ban runs contrary not only to the evidence provided by the successful state and federal programs that involve commercial drivers with ITDM, but the ban also runs contrary to the Americans with Disabilities Act and the Federal Rehabilitation Act. Congress enacted these laws to prevent discrimination against people with handicaps such as diabetes in both the

public and private sectors. The Americans with Disabilities Act states that a "medical diagnosis" such as diabetes cannot be used to deny someone employment. Rather, a handicapped person's ability to perform a job must be evaluated on a case-by-case basis. Yet, under current federal guidelines, no matter how well an ITDM individual controls his or her diabetes, the diagnosis causes an automatic denial of application for a CDL.

The evidence shows that qualified commercial drivers with ITDM do their jobs as safely if not more safely than other commercial drivers. Nonetheless, the commercial drivers issue presents a profound example of discrimination against people with diabetes. An archaic federal law is currently prohibiting people with ITDM who effectively self-manage their disease from safely performing in their chosen profession. It is time to stop this and other instances of discrimination against people with diabetes and demand that law catch up with life.

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References

1. Mathiesen B, Borch-Johnsen K: Diabetes and accident insurance: a 3-year follow-up of 7,599 insured diabetic individuals. *Diabetes Care* 20:1781-1784, 1997
2. Songer TJ: Drivers with diabetes: innocent until proven guilty. *Diabetes Care* 12:233-234, 1989
3. *Federal Register* 61:606-610, 1996