CORRESPONDENCE

Medicolegal Assessment of the Ability to Drive a Motor Vehicle in Persons With Epilepsy

by Dr. med. Monika Gube, Dr. med. Werner Ell, PD Dr. med. Johannes Schiefer, Prof. Dr. med. Thomas Kraus in volume 13/2010

Having Witnesses Present

Our colleagues from Aachen focused in their article on the ability to drive and assessment by occupational physicians, both topics of great importance for patients with epilepsy. Unfortunately, the cited Guidelines for the Evaluation for Suitability for Driving Motor Vehicles are out of date and the special recommendations from the German employers liability association (Berufsgenossenschaft) for the assessment of the occupational suitability of persons with epilepsy (1) are not mentioned.

The restrictive tenor of the article gives cause for concern. The aim of physician's intervention should always be to prompt those affected to comply with the driving license guidelines. This is usually not achieved by giving information on regulations and then asking for a signature. The necessary documentation can usually be completed even without urging the patients to give their signature, which is often perceived as humiliating—namely, by having a witness present during giving information.

There no “general” obligation on the physician's part to report a patient's unsuitability for driving a motor vehicle to the authorities, but there is no obligation to report at all; mandatory reporting has not reduced the frequency of traffic accidents caused by epilepsy patients (2). Reporting the patient to the licensing authorities is the last resort, which, among others presupposes that the doctor “made a serious attempt to discourage the patient from driving.” How such an attempt might look is not explained in any detail, but it is exactly this, which distinguishes the medical from a merely legal approach.

As far as the professional situation of the patient is concerned, it is disturbing to read that epilepsy and gainful employment are still associated with early retirement, almost as if by some kind of reflex. Is the principle of “rehabilitation before retirement” unknown? Epilepsy patients do have access to services providing medical rehabilitation and participation in professional life. Why does the article not mention rehabilitation measures according to book IX of the German social code (SGB IX)? If epilepsy problems are dealt with in such an ill-informed way, it is hardly surprising that the age at early retirement for epilepsy patients is still several years lower than that of other people who retire early (3).

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In Reply:

We thank Specht, Thorbecke, and Coban for their critical comments on our article and wish to add several comments in response.

At the time our article was accepted (20 August 2009) we did not have access to the new guidelines on expert reports and thus had to take recourse to the information available at the time. In a later chapter on the topic of epilepsy and employment we naturally included the new guidelines, in which some time limits were changed or stated with greater precision (1).

A detailed explanation of the recommendations of the employers' liability insurance associations relating to the occupational health assessment of epilepsy patients (BGI 585) (2), as mentioned by Specht, Thorbecke, and Coban, would have exceeded the scope of this article but were also included in the chapter mentioned above.

We still think that documentation and patients' signatures are important.

We agree wholeheartedly that an in-depth and informative discussion with the epilepsy patient (and a witness) improves compliance and should thus be sought. A trusting doctor-patient relationship should be the objective in each phase of treatment. However, in aiming for this we must not lose sight of a sound legal foundation; we think that those two issues are not mutually exclusive. It would be a shame if our article was misunderstood in that sense.

We did not ask the question of whether reporting a patient to the vehicle licensing authorities is a measure of last resort, but for us that goes without saying; it was included in the article in that sense.

Early retirement in the described case has to be considered on the basis of the individual case and should

under no circumstances be regarded as an ideal or even adequate solution to the problem—it merely reflected what had happened in this case, without any further evaluation on the part of the authors.

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Conflict of Interest Statement

The authors of all contributions declare that no conflict of interest exists according to the guidelines of the International Committee of Medical Journal Editors.