INDIAN EPILEPSY ASSOCIATION-
18th INTERNATIONAL EPILEPSY CONGRESS TRUST

EPILEPSY AND LAW IN INDIA

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Indian Epilepsy Society

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Contents

EPILEPSY AND INDIAN LAW - STATEMENT OF INTENT

The entire data has been complied with an aim to make it readily available to the people with epilepsy, their care givers, physicians and the general public. It is emphasized once again that this attempt is aimed solely to make available the various provisions under the Indian Law. The users must make the final decision about their individual situation after verifying the facts in consultation with the legal experts.

We are very hopeful that just as our past initiatives of the Trust, this one too will go a long way in fulfilling this unmet need of the millions of PWE and their care givers in India.

SATISH JAIN, MD; DM; FRCP
Convener of the Expert Group; President of the IEA and
Vice President of the IEA-18thIEC Trust

Preface

Epilepsy is a chronic disorder characterized by recurrent unprovoked seizures. The WHO estimates that epilepsy is one of the most common serious brain disorders. It affects the individual patient and the caregivers. It is estimated that there may be about 6-12 million people with epilepsy in India.

Despite good advances in medical therapy, Persons with Epilepsy (PWE) still face issues which seem to thwart their normal life style. While social issues form major part of their impaired life style, they face many legal hurdles making their overall life more difficult than normal individuals.

IEA-18thIEC Trust stands by all measures which can improve the life of PWE. Apart from active support to areas related to enhancement of knowledge of the members of Indian Epilepsy Association (IEA) and Indian Epilepsy Society (IES), steps have been taken to improve public knowledge of the subject by active support to seminars, awareness sessions, production of films and audio-visual material. The Guidelines for the Management of Epilepsy in India (GEMIND) and the Epilepsy Teaching Programme (ETP) were important steps taken to enhance the desired knowledge on epilepsy of medical professionals who may or may not be members of IEA/IES.

There is already an attempt to organise extensive patient education programs and awareness campaign. This will empower the patients to become more aware of their rights. They should be in a position to exercise their full legal rights and for this purpose the medical profession should become their first source of helpful information. Unfortunately, in some cases, a doctor despite exercise of "good faith" could still not have access to helpful laws in this regard.

In its recent meeting the Trust had decided to work on compiling a document in regard to the **"updated legal issues which seem to undermine the life of PWE in India"** on a similar pattern that was followed for the GEMIND.

A multidisciplinary team of experts with the active help and support of IEA and IES was formed to go into as many aspects of legal issues in India that could be addressed. A meeting of the experts was held in New Delhi on March 27, 2016 during which the available information in regard to epilepsy and various laws in India was reviewed.

Dr M Gourie-Devi **Dr VS Saxena**

Chairpersons

Members of the Expert Group

Chairpersons: Dr M Gourie-Devi, Dr VS Saxena

Convenor: Dr Satish Jain

Members:

S No	Name	Affiliation
1	Dr BC Bansal	INDIAN EPILEPSY ASSOCIATION- 18th INTERNATIONAL EPILEPSY CONGRESS TRUST
2	Dr R Shukla	INDIAN EPILEPSY ASSOCIATION- 18th INTERNATIONAL EPILEPSY CONGRESS TRUST
3	Ms Kavita Shanb hag	INDIAN EPILEPSY ASSOCIATION Representative
4	Mr KV Muralidharan	INDIAN EPILEPSY ASSOCIATION Representative
5	Dr MM Mehndiratta	INDIAN EPILEPSY SOCIETY Representative
6	Dr Bindu Menon	INDIAN EPILEPSY SOCIETY Representative
7	Dr Manjari Tripathi	Special Invitee – Medical
8	Mr Deepak Sharma	Special Invitee - Legal Expert
9	Mr Ashish	Special Invitee - Legal Expert
10	Mr T D Dhariyal	Special Invitee – Former Dy. Chief Commissioner, Persons with Disabilities, GOI
11	Dr Menka S Jain	Special Invitee – Former Director of Industrial Health, Ministry of Railways, GOI

Epilepsy and Education

The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years (up to 18 years in case of children with disabilities) as a Fundamental Right in such a manner as the State may, by law, determine. The Right of Children to Free and Compulsory Education (RTE) Act, 2009 mandates that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.

The child with epilepsy may need different support services during his/her educational years such as remediation therapy, shadow teachers and some concessions during exams. These concessions may vary depending on the Central or State Boards such and the National Institute for Open Schooling (NIOS). Procedures for applying and concessions that are available vary among different Boards. Most Boards require a disability certificate from a Government Doctor and information about the child's requirements from the School Principal. The type of concessions granted will depend on the needs of the child and the policy of the Board.

There are additional guidelines available on concessions for children having different disabilities (including those having epilepsy with disability).

Benefits provided by the Central Board of Secondary Education (CBSE) to students with different disabilities in their school board exams.

Extracts from "EXAMINATION BYE-LAWS 1995 (UPDATED UPTO JANUARY 2013)

CENTRAL BOARD OF SECONDARY EDUCATION":

"23. Exemption from Examination in the Third Language

Exemption from examination in the third language may be granted to the following categories of students:

(a) Foreign nationals studying in schools affiliated to the Board;

(b) Wards of Indian nationals admitted to class IX after a minimum of two years of stay abroad;

(c) Students admitted to class IX from school affiliated to State Boards, where only two language formula is in vogue.

(d) Blind students, those suffering from speech or hearing defects, Dyslexic and candidates with disabilities as defined in the Persons with Disabilities Act, 1995.

24. Exemption to Blind, Physically Handicapped, Autistic, Dyslexic, Spastic and candidates with disabilities as defined in the Persons with Disabilities Act, 1995

(i) Spastic, Blind, Physically Handicapped, Dyslexic, Autistic and Candidates with disabilities as defined in the Persons with Disabilities Act, 1995 appearing for the Secondary School Examination or Senior School Certificate Examination is permitted to use an amanuensis **(another person acting as a writer)** or allowed additional time as given below or both.

For paper of 3 hours duration 60 minutes

For paper of 2½ hours duration 50 minutes

For paper of 2 hours duration 40 minutes

For paper of 1½ hours duration 30 minutes

(ii) The Board will consider the Physio-therapic exercises as equivalent to Physical and Health Education course of the Board.

(iii) Candidates with visual and hearing impairment, Spastic, Dyslexic, Autistic and candidates with disabilities as defined in the Persons with Disabilities Act, 1995 have the option of studying one compulsory language as against two. This language should be in consonance with the overall spirit of the Three Language Formula prescribed by the Board. Besides one language any four of the following subjects be offered:

Mathematics, Science, Social Science, another language, Music, Painting, Home Science, Introductory Information Technology, Commerce(Elements of Business) & Commerce (Elements of Book Keeping and Accountancy)

25. Use of Amanuensis and Appointment of Amanuensis *(another person acting as a writer):*

(i) Amanuensis may be allowed in the following cases:

(a) To a Blind, Physically Handicapped, Spastic and candidates with disabilities as defined in the Persons with Disabilities Act, 1995.

(b) on sudden illness rendering the candidate unable to write as certified by a Medical

Officer of the rank not lower than Asstt. Surgeon.

(c) in the case of an accident rendering the candidate unable to write the examination as certified by a Medical Officer of the rank not lower than Asstt. Surgeon.

(ii) The amanuensis must be a student of a class lower than the one for which the candidate is taking the examination.

(iii) The Superintendent of the examination centre concerned shall choose a suitable amanuensis and forward immediately to the Regional Officer concerned of the Board, a report giving full particulars of the candidate and of the amanuensis for his consideration and approval.

(iv) The Superintendent shall arrange a suitable room for the candidate for whom an amanuensis is allowed and appoint one special Assistant Superintendent to supervise his examination.

(v) The services of amanuensis shall be provided free of cost.

(vi) The amanuensis shall be paid by the Board a remuneration as prescribed from time to time."

The above benefits/ facilities are available to students with disabilities who may appear from Patrachar Vidyalayas or as private candidates also. Specific provisions exist in the bye- laws for them as well.

Benefits for students with disability (and/or epilepsy) under the Govt. of India's Sarva Siksha Abhiyan (www.ssa.nic.in) or other similar initiatives:

Provision for special needs of children with epilepsy can be sought if it can be established that a child with epilepsy has certain special needs and can be covered in any of the following 05 categories mentioned below {this is the extract from the SSA Assessment Guidelines for Children with special needs (CWSN)}as "Epilepsy" is neither mentioned specifically in PwD Act nor in SSA guidelines,

1. Low Vision
2. Cerebral Palsy
3. Multiple Disabilities
4. Intellectual Impairment
   a. Mild Mental Retardation
   b. Slow Learners
   c. Specific Learning Disabilities
5. Autism

Some children can also be evaluated for special needs under **General Evaluation Techniques for CWSN** like:

- **Extra time may be provided, as per the needs of the child. Breaks may beallowed during this time to counter fatigue**
- Use of technology e.g. computers, tape recorders, voice synthesizers to be allowed as per the needs of the child

- Assessment procedures may include objective type questions, instead of essay type questions for children with difficulties in language acquisition, questions to be modified e.g. simple language
- Timing of evaluation may be necessary, where children are on specific regular medication.
- The special needs of a child with epilepsy should be taken up with the school authorities along with supporting documents. The dialogue with the school authorities should be aimed at the following:
- To identify dominant focus related skill in the affected child and its development by specialized trained teachers.
- To involve Ministry of Social Justice and Empowerment (Govt .of India) and the concerned State Govts.
- To open special Teachers Training Centers for PWE (CWSN) providing meaningful education to PWE with an aim to raise their confidence levels necessary to a lead normal life.
- Exposure to normal school atmosphere by grouping PWE with normal students to improve group behavior.

Educational benefits for students with disability under the NIOS scheme.

Children with epilepsy who may have issues in going to school for reasons of distance, terrain etc. should be encouraged to study under National Institute of Open Schooling.

NIOS has its Regional Centres and the Study Centres across the country. The contact details of its Headquarter are as under:

National Institute of Open Schooling

A-24/25, Institutional Area, Sector - 62, NOIDA

Distt. Gautam Budh Nagar, Uttar Pradesh - 201 309.

Toll Free: 1800-180-9393

Web Site: www.nos.org

Chairman: Tel: 0120-2403173, 0120-4089802 Fax: 0120-4089813

Email: cm@nios.ac.in

Secretary: Tel: 0120-2402889, 0120-4089809 Fax: 0120-2403172

Email: secretary@nios.ac.in

Epilepsy, Sports and Leisure Activities

There are no laws in India in regards to sports, leisure activities and epilepsy.

This report (whose summary is given below) was written by experts selected by the International League Against Epilepsy (ILAE) and was approved for publication by the ILAE. Opinions expressed by the authors, however, do not necessarily represent the policy or position of the ILAE.

Epilepsy, seizures, physical exercise, and sports: A report from the ILAE Task Force on Sports and Epilepsy

Summary

People with epilepsy (PWEs) are often advised against participating in sports and exercise, mostly because of fear, overprotection, and ignorance about the specific benefits and risks associated with such activities. Available evidence suggests that physical exercise and active participation in sports may favorably affect seizure control, in addition to producing broader health and psychosocial benefits. This consensus paper prepared by the International League Against Epilepsy (ILAE) Task Force on Sports and Epilepsy offers general guidance concerning participation of PWEs in sport activities, and provides suggestions on the issuance of medical fitness certificates related to involvement in different sports. Sports are divided into three categories based on potential risk of injury or death should a seizure occur: group 1, sports with no significant additional risk; group 2, sports with moderate risk to PWEs, but no risk to bystanders; and group 3, sports with major risk. **Factors to be considered when advising whether a PWE can participate in specific activities include the type of sport, the probability of a seizure occurring, the type and severity of the seizures, seizure precipitating factors, the usual timing of seizure occurrence, and the person's attitude in accepting some level of risk**. The Task Force on Sports and Epilepsy considers this document as a work in progress to be updated as additional data become available.

In general, if a person is free from seizures he/she and is on antiepileptic drugs, most of the sports and leisure activities can be undertaken. The problem arises when the seizures are frequent and poorly controlled. For them any type of activities, which may endanger their life or that of others due to an accident resulting from a seizure, should be avoided.

Reference:

- Capovilla, G., Kaufman, K. R., Perucca, E., Moshé, S. L. and Arida, R. M. (2016), Epilepsy, seizures, physical exercise, and sports: A report from the ILAE Task Force on Sports and Epilepsy. Epilepsia, 57: 6–12. doi: 10.1111/epi.13261
- http://www.epilepsyindia.org/socialaspect_sports_iea.html

Epilepsy and Driving

In India, the Motor Vehicle Act is uniform all over the country and is formulated by the Central Government. The State Government is authorized to make required amendments with a view to implement the laws.

The Motor Vehicle Act, 1939 empowered transport authorities to deny a driving license to anyone with even a single seizure at any point in his/her life. Following a series of modifications, current regulations require all applicants to fill up an 'application cum declaration of physical fitness' form. If declared as having epilepsy, the applicant is required to undergo a medical examination. Even in the case of positive medical recommendations, there is no provision to issue a driving license if the person has epilepsy.

Current status on issuing of Driving License is that all applicants irrespective of age, have to fill up Form – 1 (Application cum declaration to the physical fitness) and if declared as having epilepsy, then has to undergo a medical examination. In spite of medical recommendations, there is no provision to issue a driving license if the person has epilepsy. Thus, according to current Indian Law, as of now a person with epilepsy cannot drive. Medical examination is compulsory irrespective of age for all applicants for transport vehicle driving license. For non-transport vehicle driving license, medical examination is required only if they are above the age of 50 years.

The Indian Epilepsy Association (IEA) has been addressing various issues related to the right of epilepsy patients. In view of the changed scenario in the management of epilepsy, the IEA has been working towards an amendment in the Motor Vehicle Act in India.

Legislative course of action in India

In view of the above, the IEA approached the Indian government with an appeal to introduce amendments in regulations concerning driving and epilepsy in the Indian law. Addressing the Minister of Surface Transport in 2005, the IEA suggested the following course of action:

1. Issue of driving license to PWE;
2. Issue of license is qualified, in the sense that it is subject to certain conditions;
3. License should be issued to those who have not suffered an epilepsy attack in the last one or two years;
4. In the general interest of the public, license should not be issued to PWE who may want to be drivers of public transport vehicles and heavy vehicles;

5. Make it mandatory for the person to inform the appropriate authority if he/she develops a seizure;
6. The doctor in-charge of the PWE should inform the appropriate authority if the person has seizures;
7. All doctors should have a copy of the guidelines on this issue which can be supplied by the IEA.

The IEA has also suggested an amendment in the form used as an 'application cum declaration of physical fitness'. Instead of assessing the epilepsy condition of the applicant in general, the form should ask specifically whether the applicant has suffered from epilepsy or from sudden attacks of loss of consciousness during the last two years.

The Ministry of Surface Transport had forwarded the application of the IEA to the Ministry of Health. The latter in turn, seeing the scientific merit in the case, worked out recommendations in consultation with IEA and other medical experts. According to these recommendations, driving license may be issued to those who have been fit-free for the past three years and if the doctor in-charge certifies that the EEG (Electro Encephalogram) and MRI scan (Magnetic Resonance Imaging) show no abnormality. However, these recommendations have been waiting for the last many years to be notified as amendments in the law. They need to be approved by various other related ministries before they are tabled in Parliament for debate.

As of today, the Government of India has no provision to issue special driving licenses to People with Epilepsy (PWE), no matter how long they have been seizure-free. But it is also true that PWE drive merrily without disclosing their epilepsy condition and history, causing considerable risk to their own safety and those of others. This is partly because they know that even a slight reference to their medical history could cost them their driving license. Only a differentiated law which is sensitive to the actual condition and history of those with epilepsy can address the situation scientifically and justly.

International scenario

In the last 10 years, the Maurice Parsonage Commission on Driving License Regulations of the International Bureau for Epilepsy (IBE) has given a set of recommendations after studying the subject extensively. It has suggested that a limited restriction, for a period of 2 years following a seizure, (with certain qualification) is adequate, and the period thereafter should be considered risk-free for issuing a driving license.

Most states in the USA permit a person to drive if she/he has been free of seizures for varying periods, between 3 and 18 months. In the UK, a driving license can be granted if the person has been free from seizures for one year. In Australia, driving licenses are issued to those who've been seizure-free for a period of 6 months to two years. Usually, such driving licenses are with certain conditions.

References:

1. http://indiatogether.org/epilepsy-laws
2. http://www.epilepsyindia.org/socialaspect_driving_iea.html

Epilepsy and Career and Job opportunities, Discrimination at Work Place:

There is a general feeling that a person with epilepsy is not capable of doing a job. It is also believed that PWE are frequently absent from work due to their seizures. Many studies show that people with epilepsy tend to work more conscientiously than others to prevent losing in the job.

In most government jobs, the fitness of a candidate who declares in writing or is detected to be suffering from any chronic disease (including epilepsy) is decided as per the work profile of the specified post.

Those having epilepsy are usually declared unfit for jobs of professional drivers of motor vehicles, pilots, people working at unprotected heights or with open and or moving machinery and live electrical cables, jobs involving train running and passing duties, and certain categories of jobs in the defence services are not suitable for persons with epilepsy.

These are just general observations and the suitability for job and medical fitness can vary from job to job and between different organizations. Those people with epilepsy seeking employment are advised to consult the terms and conditions for eligibility and medical fitness for the job before they apply for the job.

References:

1. http://www.epilepsyindia.org/socialaspect_employment_iea.html
2. **Indian Railways Medical Manual, Vol 1, 2000**

Epilepsy and Marriage

According to the Hindu Marriage Act, 1955 and the Special Marriage Act, 1958, a marriage can be solemnized if at the time of marriage neither party suffered insanity or epilepsy. In 1976, the Government of India amended the Hindu Marriage Act (1955) and special Marriage Act (1954). As per this Marriage Laws Amendment Act 1976, a person subjected to recurrent attacks of insanity or epilepsy cannot have a legally valid marriage and such a marriage shall be voidable, resulting in divorce.

Indian Epilepsy Association filed public interest litigation {Writ Petition (Civil) No. 501 of 1996}against the Union of India challenging the legal validity of provisions of the marriage (Amendment) Act of 1976 as applicable to epilepsy. In August 1997 Government of India responded to the courts order mentioning that the legislation to remove the grievance is in the offing. The Rajya Sabha passed the bill on November 30th 1999 and the Lok Sabha followed suit on December 20th 1999.

Today a person with epilepsy can have a legally valid marriage and epilepsy is no more an illness to claim for divorce.

Reference:

http://www.epilepsyindia.org/socialaspects_marriage_iea.html

Epilepsy and Insurance

Considering huge costs involved in health care, it is getting unaffordable for a common person. Having a Health insurance policy enables one to afford the medical treatment.

Normally, insurance policy is given to you after you undergo a health check up. You will be given policy keeping in mind the health problems you are suffering. If you declare everything and after that you have a health problem, which may be linked to the existing problem, you will get the claims. Hiding the fact from one company, a claim could be rejected completely.

You take a medi-claim policy for bad times. But there are some clauses in the document that you must read the document carefully before subscribing to such a policy.

If someone is suffering from asthma, chronic nephritis, diabetes, epilepsy and hypertension, you can't claim the expenses incurred on the treatment under a medi-claim policy.

However, some insurance companies have started to include epilepsy in the Health Insurance plan:

IndiaFirst Mediclaim Plan is a Non-Participating Health Insurance Plan. It is a Traditional Plan without any Bonus Facility.

How it works – In this plan, premium needs to be paid for the entire Policy Tenure of 5 years. There is a Premium Guarantee for 3 years in this plan even if there is a claim and will be reviewed thereafter at the end of every three years.

There are **2 Plan Types**:

- **Easy Health** and
- **Premier Health**

This Plan covers for all options:

Basic Hospitalization In –Patient Expenses,

- Pre and Post Hospitalization expenses
- Day Care Benefits
- Emergency Ambulance Benefit
- Donor Expense Benefit
- Cost of Artificial Limbs- Payable as per actual expenses, subject to a maximum of 10% of the annual SA or INR 25,000, whichever is lower

Key Features of IndiaFirst Mediclaim Policy

- This is a Health Insurance Plan
- In this plan, the premium remains constant for a period of 3 years even if there has been a claim
- Self, Spouse, Children, Parents as well as Parents-in-Law can be covered in this option
- This Plan can be opted for a maximum Sum Assured of Rs 25 Lacs
- This plan can be opted for an Individual or for the family under Family Floater Option
- There are 2 Plan Types- Easy Health and Premier Health
- This plan offers Guaranteed Lifetime Renewability
- There is Best Doctor Facility in this Plan
- There is an additional Term Rider available in this plan

Benefits you get from IndiaFirst Mediclaim Insurance Plan

- **Hospitalization Benefit –** The Regular Benefits covered under both Options of this plan are:
- In Patient Hospitalization:
  - Room Rent
  - Nursing charges, Surgeons, Anaesthetists, Dieticians and other doctor's fees
  - Diagnostic and Laboratory Charges
- • Anaesthesia, blood, oxygen, medicines and drugs etc.
- 200 Day Care Benefits as mentioned
- 30 days of Pre-Hospitalization Benefit and 60 days of Post-Hospitalization Benefit
- Emergency Ambulance Benefit
- Donor Expense Benefit
- Cost of Artificial Limbs subject to 10% of Sum Assured or Rs 25,000 whichever is lower

Domiciliary Benefit – is provided under Premier Plan upto a maximum of 5% of the Basic Sum Assured

Income Tax Benefit – Premium paid towards Critical Illness Benefit and Cancer Care Benefit is up to Rs. 15,000 are allowed as a deduction from the taxable income each year under section 80D and the remaining premium is eligible for a deduction from the taxable income each year under section 80C.

Additional Features and Benefits of IndiaFirst Mediclaim Plan

- **Riders-** There is **1 additional rider** available with this plan:
- IndiaFirst Term Rider
- **Disclaimers in IndiaFirst Mediclaim Plan**
- Maternity Benefit is available after a waiting period of 2 years and payable up to a maximum of Rs 1 lac only
- There is a Waiting Period of 30 days in this plan and hospitalization due to symptoms that occurred during the first 30 days of this plan is beyond the scope of this policy
- The expense of the artificial limb would be payable only once during the entire term of the plan and payable for a single limb only
- There is a 36 Months Waiting Period for Pre-existing diseases
- There is a 24 Months Waiting Period for Specified Surgeries
- Domiciliary hospitalization benefit may be reimbursed under the Premier Health option subject to a maximum of 5% of base sum assured. Domiciliary Benefit will only be reimbursed if the life assured has been under medical treatment for more than 3 days for such illness/ disease/ injury which in the normal course would require care and treatment at a hospital/ nursing homeDomiciliary Treatment covers:

- Asthma
- Bronchitis
- Chronic Nephritis and Nephritic Syndrome
- Diarrhoea and all type of Dysenteries including Gastroenteritis
- Diabetes Mellitus and Insipidus
- Epilepsy
- Hypertension
- Influenza, Cough and Cold
- All Psychiatric or Psychosomatic Disorders
- Pyrexia of unknown Origin for less than 10 days

- Tonsillitis and Upper Respiratory Tract infection including Laryngitis and pharyngitis
- Arthritis, Gout and Rheumatism
- Physiotherapy
- Maternity and its related complications
- Rest cure and palliative care for terminally ill persons
- Cost of any appliances or equipment

References:

1. http://www.rediff.com/money/2006/aug/25insure.htm
2. http://www.myinsuranceclub.com/life-insurance/companies/india-first/mediclaim-plan

Epilepsy and Disability

Details of 'Epilepsy as a Disability" as it stands today in the Persons with Disabilities (PwD) act, 1995:

In the Guidelines for evaluation of various disabilities and procedure for certification notified by Ministry of Social Justice and Empowerment vide notification No. 16-18/97-NI. Dated 1st June 2001, post head injury fits and epileptic convulsions can cause PPI (locomotor) up to 75%. The extracts from the notification are as under:

"GUIDELINES FOR EVALUATION OF VARIOUS DISABILITIES AND PROCEDURE FOR CERTIFICATION

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

NOTIFICATION

NEW DELHI JUNE 1, 2001

SUB: Guidelines for evaluation of various disabilities and procedure for certification.

No. 16-18/97-NI.I (as published in GOI, Part 1, section 1, dated 13.6.2001):

1. In order to review the guidelines for evaluation of various disabilities and procedure for certification as given in the Ministry of Welfare's OM No. 4-2/83-HW-III, dated the 6th August, 1986 and to recommend appropriate modifications/alterations keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Govt. of India in Ministry of Social Justice and Empowerment, vide Order No. 16-18/97-NI.I, dated 28-8-1998, set up four committees under the Chairmanship of Director General Health Services – one each in the area of Mental Retardation, Locomotor/Orthopedic disability, Visual disability and Speech & Hearing disability. Subsequently, another Committee was also constituted on 21-7-1999 for evaluation, assessment of multiple disabilities and categorization and extent of disability and procedures for certification.

2. After having considered the reports of these committees the undersigned is directed to convey the approval of the President to notify the guidelines for evaluation of following disabilities and procedure for certification:

1. Visual impairment,
2. Locomotor/Orthopedic disability,
3. Speech & Hearing disability,
4. Mental retardation,
5. Multiple Disabilities.

3. The minimum degree of disability should be 40% in order to be eligible for any concessions/benefits.

4. According to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1986 notified on 21.12.1996 by the Central Government in exercise of the powers conferred by sub-section (1) and (2) of Section 73 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), authorities to give Disability Certificate will be a Medical Board duly constituted by the Central and the State Government. The State government may constitute a Medical Board consisting of at least three members out of which at least one shall be a specialist in the particular field for assessing Locomotor/Visual including low vision/Hearing and speech disability, Mental retardation and Leprosy cured, as the case may be.

5. Specified test as indicated in Annexure should be conducted by the medical board and recorded before a certificate is given.

6. The certificate would be valid for a period of five years for those whose disability is temporary. For those who acquire permanent disability, the validity can be shown as 'Permanent'.

7. The State Government/UT Administrations may constitute the medical boards indicated in para 4 above immediately, if not done so far.

8. The Director General of Health Services, Ministry of Health and Family Welfare will be the final authority, should there arise any controversy/doubt regarding the interpretation of the definitions/classifications/evaluations tests etc.

GAURI CHATTERJI,

Jt. Secy.

ANNEXURE-A

7. GUIDELINES FOR EVALUATION OF PHYSICAL IMPAIRMENTS IN NEUROLOGICAL CONDITIONS

1.1 Basic Guidelines

1. Assessment in neurological conditions is not the assessment of disease but the assessment of its effects, i.e. clinical manifestations.
2. These guidelines should only be used for central and upper motor neurone lesions.
3. Proformas (form A & B) will be utilized for assessment of lower motor neurone lesions, muscular disorders and other locomotor conditions.
4. Normally any neurological assessment form the purpose of certification has to be done six months after the onset of disease, however exact time period is to be decided by the Medical Doctor who is evaluating the case and has to recommend the review of certificate as given in the standard format of certificate.
5. Total percentage of physical impairment in any neurological condition should not exceed 100%.
6. In mixed cases the highest score will be taken into consideration. The lower score will be added telescopically to it by the help of combining formula
7. $$a + \frac{b(90-a)}{90}$$
8. Additional rating of 4% will be given for dominant upper extremity.
9. Additional weightage up to 10% can be given for loss of sensation in each extremity but the total physical impairment should not exceed 100%.

7.9 Table-VII: Post Head Injury Fits and Epileptic Convulsions

Frequency/Severity of Convulsions	Physical Impairment
Mild– occurrence of one convulsion only	Nil
Moderate – 1-5 convulsions/month on adequate Medication	25%
Severe – 6-10 convulsions/month on adequate Medication	50%
Very Severe – more than 10 fits/month on adequate medication	75%

(3). Procedure for Certification of Multiple Disability

The procedure will remain the same as has been developed by the respective sub-committees on various single disabilities and finalized in a meeting under the Chairpersonship of Dr SP Agarwal held on 29-2-2000. The final disability certificate for multiple disability will be issued in Form III {as prescribed in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Amendment Rules, 2009)} by the Medical Authority which has given higher score of disability by combining the score of different disabilities using the combining formula, i.e. [a + b (90-a)] ÷ 90. In case, where two scores of disability are equal, the final certificate of multiple disabilities will be issued by any one of them as decided by Local authority".

* The implication of PwD Amendment Rules, 2009 has been incorporated in the text of the original notification.

Epilepsy and Income Tax

Medical treatment of specified ailments under section 80DDB –Deductions of expenses on medical treatment of specified ailments such as AIDS, cancer and neurological diseases (where the disability level has been certified to be of 40% and above) can be claimed under Section 80DDB. The maximum amount of deduction allowed from gross total income on condition that no medical reimbursement is received from any insurance company or employer for this amount. In case of reimbursement the amount paid should be reduced by the amount received if any under insurance from an insurer or reimbursed by an employer.

The amount of deduction-Actual or maximum of

	A.Y. 2016 -17	A.Y. 2015 -16
HUF or Individual below the sixty Years of Age	₹ 40,000	₹ 40,000
Any resident individual of age of 60 years or above but less then 80 years	₹ 60,000	₹ 60,000
resident individual of the age of 80 years or above	₹ 80,000	₹ 60,000

Points to be kept in mind

- Deduction under section 80DDB can be claimed by an individual or a HUF, who is resident in India.
- Deduction is available in respect of amount actually paid by the taxpayer on medical treatment of specified disease or ailment (prescribed by the Board, see rule 11DD for prescribed disease or ailment).
- For the purpose of this section in the case of an employee "dependant" means individual, the spouse, children, parents, brothers and sisters of the employee or any of them, dependant wholly or mainly on the employee for his support and maintenance.
- In case of an individual, the aforesaid expenditure should be incurred on medical treatment of an individual or wholly/mainly dependent spouse, children, parents, brothers and sisters of the individual; and

- In case of a HUF, expenditure should be incurred on the medical treatment of any member of the family, who is wholly/mainly dependent on such HUF.
- The tax payer has to obtain the prescription for the medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed.
- In order to claim this deduction, however, you will have to submit **Form 10-1** from a specialist doctor confirming the treatment of the disease. Up to A.Y. 2015-16 the Certificate was required only from a specialist Doctor working in a Government hospital but from A.Y. 2016-17 it is amended to provide any specialist doctor.
- From the amount of deduction computed in aforesaid manner, amount, if any, received by the taxpayer from any insurer or from his employer, by way of reimbursement for such expenditure shall be deducted.

Recommended **Post-Budget 2015-Section 80DDB-**Limit raised & relaxed condition of certificate, the following shall be the eligible diseases or ailments:

(*i*) Neurological Diseases where the disability level has been certified to be of 40% and above,—

(*a*) Dementia ;

(*b*) Dystonia Musculorum Deformans ;

(*c*) Motor Neuron Disease ;

(*d*) Ataxia ;

(*e*) Chorea ;

(*f*) Hemiballismus ;

(*g*) Aphasia ;

(*h*) Parkinsons Disease ;

(*ii*) Malignant Cancers ;

(*iii*) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS) ;

(*iv*) Chronic Renal failure ;

(*v*) Hematological disorders :

(*i*) Hemophilia ;

(*ii*) Thalassaemia.

Extract of Rule 11DD

Specified diseases and ailments for the purpose of deduction under section 80DDB.

(*i*) Neurological Diseases where the disability level has been certified to be of 40% and above,—

(*a*) Dementia ;

(*b*) Dystonia Musculorum Deformans ;

(*c*) Motor Neuron Disease ;

(*d*) Ataxia ;

(*e*) Chorea ;

(*f*) Hemiballismus ;

(*g*) Aphasia ;

(*h*) Parkinsons Disease ;

(*ii*) Malignant Cancers ;

(*iii*) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS) ;

(*iv*) Chronic Renal failure ;

(*v*) Hematological disorders :

(*i*) Hemophilia ;

(*ii*) Thalassaemia.

Please refer to GUIDELINES FOR EVALUATION OF PHYSICAL IMPAIRMENTS IN NEUROLOGICAL CONDITIONS in section on Epilepsy and Disability.

(2) The certificate in respect of the diseases or ailments specified in sub-rule (1) shall be issued by the following specialists working in a Government hospital—

(*a*) for diseases or ailments mentioned in clause (*i*) of sub-rule (1) – a Neurologist having a Doctorate of Medicine (D.M.) degree in Neurology or any equivalent degree, which is recognised by the Medical Council of India;

(*b*) for diseases or ailments mentioned in clause (*ii*) of sub-rule (1) – an Oncologist having a Doctorate of Medicine (D.M.) degree in Oncology or any equivalent degree which is recognised by the Medical Council of India;

(*c*) for diseases or ailments mentioned in clause (*iv*) of sub-rule (1) – a Nephrologist having a Doctorate of Medicine (D.M.) degree in Nephrology or a Urologist having a Master of Chirurgiae (M.Ch.) degree in Urology or any equivalent degree, which is recognised by the Medical Council of India;

(*d*) for diseases or ailments mentioned in clause (*v*) of sub-rule (1) – a specialist having a Doctorate of Medicine (D.M.) degree in Hematology or any equivalent degree, which is recognised by the Medical Council of India :

Provided that where in respect of any diseases or ailments specified in sub-rule (1), no specialist has been specified or where the specialist specified is not posted in the Government hospital in which the patient is receiving the treatment, such certificate, with prior approval of the Head of that hospital, may be issued by any other specialist working full-time in that hospital and having a post-graduate degree in General or Internal Medicine, which is recognised by the Medical Council of India.

(3) The certificate from the prescribed authority to be furnished along with the return of income shall be in Form No. 10-I.]

Reference: http://taxguru.in/income-tax/deduction-section-80ddb-reduce-insurance-claim-recd-expense-amount.html

Note: A person with epilepsy certified to be a person with disability/severe disability by appropriate medical authority or an assessee who has a dependent with epilepsy certified to be person with disability by appropriate medical authority are also eligible for rebate under Section 80DDB and Section 80U of the Income Tax Act.

ADDENDUM

It may be informed that the Lok Sabha has cleared "The Right of Persons with Disabilities Bill, 2016" on December 16, 2016 . The Bill was earlier passed in the Rajya Sabha on December 14, 2016.

The final draft of the Bill transformed into the new Right of Persons with Disabilities Act needs to be studied in detail in regards to the provisions and benefits that people with epilepsy are entitled to under the the new Right of Persons with Disabilities Act.