

Deficiencies and Improvements in the Legal Regulation of Drivers' Mental Health Conditions in China

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doi:10.56397/SLJ.2022.12.03

Abstract

A driver's mental health has a significant impact on his or her driving ability and traffic safety. A mentally ill driver driving a car is significantly more likely to be involved in a traffic accident than a healthy driver. The laws and regulations in place to address the driving risks of mentally ill drivers in China are inadequate and there is an urgent need for appropriate legal regulation to maintain road safety and public order. The main shortcoming of the law is the lack of a proper mechanism for assessing the driver's mental state and the accompanying risk control measures for the temporary expiry of the driver's licence, not to mention the re-validation of the licence after the driver's mental state has been restored. China could learn from some of the EU and US practices and establish a legal mechanism to assess the mental health of drivers and control the validity of their driving licences based on the existing traffic law system.

Keywords: mental health, driving ability, traffic accident, driving license, legal mechanism

1. Introduction

The Regulations of the People's Republic of China on Road Traffic Management, enacted in 1988, already contained provisions on the regulation of vehicle drivers. ¹After more than thirty years of development, the current legislative system for drivers' mental health safety in China has taken shape in outline. Firstly, the Regulations on the Application and Use of Motor Vehicle Driving Licences stipulate the physical and mental conditions that drivers should meet when applying for a driving licence. Article 13(1)(1) of the Regulations on the Application and Use of Motor Vehicle Driving Licences stipulates that

people with organic heart disease, epilepsy, Meniere's disease, vertigo, hysteria, tremor paralysis, mental illness, dementia and neurological disorders that affect the movement of the limbs and other conditions that impede safe persons with illnesses that prevent safe driving are not permitted to apply for a motor vehicle driving licence. Only those who meet the physical and mental conditions required by this regulation are eligible to apply for a driving licence. In addition, Article 59(3) of the Code of Practice for Motor Vehicle Driving Licences also stipulates that a motor vehicle driving licence shall not be issued if the applicant is found to be incompatible with

the conditions of application for a motor vehicle driving licence at the time of issuance of the licence.

In addition, Article 22(2) of the Road Traffic Safety Law stipulates that a person shall not drive a motor vehicle if he or she has consumed alcohol, taken psychotropic or narcotic drugs under state control, or suffers from a disease that prevents the safe operation of a motor vehicle, or if excessive fatigue affects safe driving. This article is actually an umbrella provision for the driving prohibition conditions; secondly, for the detection and testing of mental illnesses, Article 63 of the Code of Practice for Motor Vehicle Driving Licences stipulates that vehicle management offices shall establish an information exchange mechanism with relevant departments to regularly obtain information on persons suffering from mental illnesses, epilepsy and other diseases, deaths and drug addiction, and to verify and deal with them in accordance with the law when handling motor vehicle driving licence business; and Article 59(6) stipulates that if an applicant is suspected of being mentally ill, a psychiatric forensic appraisal agency shall be commissioned to conduct an appraisal, and if the applicant is found not to meet the conditions for a motor vehicle driving permit application at the time of issuance of the permit, a motor vehicle driving permit shall not be issued.² In the case of other diseases suspected of impeding safe driving, the diagnosis shall be made by a medical institution designated by the competent provincial health authority. These two provisions place an obligation on the vehicle control office to proactively detect and send drivers for testing for mental illness. In practice, the majority of driver's licence suspensions due to mental problems have been initiated by the vehicle administration, for example, in a 2017 administrative lawsuit brought by an administrative respondent against a traffic police detachment for revocation of a driver's licence, the decision to revoke the licence was in fact made after verification by an online psychiatric database.³ Finally, the provisions on the revocation of driving licences are mainly found in Article 77(1)(5) of the Regulations on the Application for and Use of Motor Vehicle Driving Licences, which stipulates that the Vehicle Administration Office shall cancel the motor

vehicle driving licence of a motor vehicle driver who has one of the following circumstances: organic heart disease, epilepsy, Meniere's disease, vertigo, hysteria, tremor paralysis, mental illness, dementia and neurological diseases affecting the movement of the limbs and other diseases that prevent safe driving.

With China's rapid economic development, the number of motor vehicles has also risen rapidly, and the number of motor vehicles and licensed drivers has now reached an unprecedented high.⁴ The accompanying driver safety system is falling behind and has revealed a number of areas that need improvement.

2. The Relevant Laws and Regulations Are too Cursory and Lack Refined Argumentation and Classification

The provisions of Article 13(1) of the Regulations on the Application and Use of Motor Vehicle Driving Licences are already too loose in the modern medical perspective, and the simple reference to "illnesses that prevent the safe operation of a motor vehicle" is undoubtedly tautological and unhelpful. There are four categories: mental illnesses, neurological illnesses and other illnesses that may cause driving impairment (e.g., pacemakers, diabetes, etc.).

There is a strict distinction between "neurological" and "psychiatric" disorders. The former includes infections, trauma, tumours, vascular lesions and congenital anomalies of the nervous system, while the latter is a disease characterised by changes in behaviour and personality, emotional and psychological disturbances. (You Zhijun, 2003) In layman's terms, the former has substantial changes in the brain, while the latter has no obvious substantial changes, mainly mental state problems, such as depression, mania, etc. The author believes that, in the field of driving safety regulation, we can define it as a mental illness that may affect driving, in addition to neurological and psychiatric illnesses, of which autism is the main representative. Other conditions that may cause driving impairment are mainly non-neurological conditions such as diabetes and heart disease, which pose a risk of causing driving safety problems. The impact of these disorders on driving safety varies. The main neurological diseases represented are epilepsy, brain

haemorrhage, Alzheimer's disease, etc. These diseases have to be intervened by medication, surgery and other treatments, and are generally relatively easy to detect and detect, and their impact on driving is very significant, but it is important to note that there are significant differences between different neurological diseases. For example, uncontrolled epilepsy, due to its paroxysmal and unpredictable nature and the fact that it is difficult to cure, has an uncontrollable effect on driving and the patient has lost basic control by the time the seizure occurs, and therefore such patients are prohibited from driving in the laws and policies of Germany and some other European countries. (Laurent M. Willems, Philipp S. Reif, Susanne Knake, Hajo M. Hamer, Constantin Willems, Günter Krämer, Felix Rosenow & Adam Strzelczyk, 2019) For some curable neurological diseases, such as brain haemorrhage, it is possible to meet the driving requirements when a cure has been established. In contrast, neurological disorders such as Alzheimer's disease, which are incurable and have significant differences in severity, require a rigorous assessment to determine whether they can drive. Mental illnesses, such as depression and anxiety disorders, have a lesser impact on driving than neurological illnesses, but can still jeopardise driving safety during the onset of the illness. Once the condition is better controlled, driving can be resumed. Findings from current research suggest that young people with ADHD and autistic disorders experience many obstacles in the process of passing a pre-driving assessment to obtaining a driving licence. (M. Almberg, H. Selander, M. Falkmer, S. Vaz, M. Ciccarelli & T. Falkmer, 2015) Patients with ASD who have a driver's licence and drive frequently have more accidents, tickets, driving difficulties and inappropriate driving behaviour (Daly BP, Nicholls EG, Patrick KE, et al., 2014).

3. There Is a Lack of Systems Designed to Alert Drivers to the Presence of Mental, Neurological and Mental Health Disorders such as Screening, Assessment, Ongoing Testing and Information Exchange

With the large number of motorists in our society and the lack of self-awareness to stop people with obstructive sleep apnoea from driving fatigued, effective screening and detection is essential. To

diagnose the condition accurately, a polysomnography is currently used, ⁵the high cost of this method makes it unlikely to be used for initial screening. A very general and feasible screening method is therefore needed to screen out suspicious patients and send them to a medical institution for authoritative testing in the first instance. As different types of diseases have different pathogenesis, different symptoms and different screening methods, it is important that legislators listen to medical experts and tailor screening methods to suit the characteristics of the disease.

The establishment and improvement of the information exchange system is also crucial to driving safety. It is an important way for the traffic police to detect applicants or drivers suffering from conditions that do not qualify them for driving, and is based on the establishment of a sound and complete nationwide networked database of information on disease data. In addition, once the database is established, traffic police departments should also conduct regular checks and comparisons to identify patients or suspected patients in a timely manner and eliminate potential driving risks. In this regard, traffic police departments in some regions have already had experience, and in an administrative lawsuit related to the cancellation of driving licences heard in Chongqing in 2017, the Chongqing traffic police department discovered that the plaintiff was a suspected mentally ill person when conducting verification based on a verification notice from the Ministry of Police Orders. On 12 November 2015, the Chongqing Public Security Bureau issued a notice which restricts and cancels the application of motor vehicle driving licenses held by mentally ill persons, requiring the public security bureaus in each region to verify the information on motor vehicle driving licenses held by mentally ill persons through the "National Heavy Mental Patient Information Management System" and the "Comprehensive Application Platform for Public Security Traffic Management" by 25 November. In accordance with the principle of local management, the relevant DMV will take a screenshot of the verification situation and then cancel the motor vehicle driving licence and inform the mentally ill patient and his or her

guardian by telephone, letter or SMS that the motor vehicle driving licence held by the patient has been cancelled and that he or she cannot drive a motor vehicle on the road. The fact that the motor vehicle driving licence has not been recovered; the motor vehicle driving licence that has not been recovered is announced as invalid.⁶

The practice of the Chongqing Public Security Bureau is a good one to follow. In addition to heavy mental illness, a database of other diseases affecting driving safety should be established for verification purposes, and in addition, this database should be made available to traffic police departments throughout the country, due to the mobility of the population, in addition to facilitating the roll-out of wide-scale verification.

4. Lack of Pathological Understanding of Mental, Neurological and Psychological Health Disorders Leads to Formalized, Fragmented, Labelled and Unregulated Means of Regulation

China's current system lacks specific consideration of mental conditions, and in reality, fatigue is quite common in driving and poses a serious threat to public transportation safety. ⁷But in the current system, the relevant provisions are few and far between, the Road Traffic Safety Law, Article 22, paragraph 2, which provides that excessive fatigue affects the safety of driving, shall not drive a motor vehicle. In addition, the "Road Traffic Safety Law Implementation Regulations" Article 62 provides that no continuous driving a motor vehicle for more than four hours without stopping to rest or stopping to rest for less than 20 minutes. The author believes that these two provisions do not play a big role in the substance, because it does not actually provide for the specific detection of fatigue driving and the corresponding system. Fatigue may be caused by a variety of reasons, such as staying up late, insomnia, etc., so complete prevention and control at the source is impossible to achieve, but the pathological factors that cause daytime sleepiness and fatigue can be screened and detected through medical and other means, and obstructive sleep apnea syndrome is the most common pathological factor. The provisions of Article 25 of the Measures for Dynamic Supervision and Management of Road Transport Vehicles issued by the Ministry of Transport in 2014 are in fact much the same as those of Article 62 of the Road Traffic Safety Law, which restricts

driving time, and such provisions are hardly substantive without punitive measures or other provisions to safeguard their implementation. Despite the existence of a number of regulatory instruments, but there are still many problems, and not good protection of the driver's driving safety. First of all, the regulation is too formal, such as the driver's driving time limit, but there are no actual enforcement measures and to ensure the implementation of the norms. Second, the means of regulation is fragmented, that is, its provisions are too scattered, scattered in several different levels of effectiveness of the norms, and some norms only provide for specific areas of driving, but the lack of regulatory means to cover all drivers, so that compliance and enforcement of these norms will be difficult, in addition, the driving safety of the uncovered areas of driving cannot be guaranteed. Finally, the means of regulation is too single, different kinds of diseases have different nature characteristics, so different screening and detection means should be developed, if you want all driving vehicles as road driving vehicles are equipped with positioning devices and monitoring and regulation is unrealistic.

5. Vague Regulations on Driving Restrictions for Neurological Disorders Lead to Administrative Enforcement that Is Prone to Controversy

In 2020, the People's Court of Yantian District, Shenzhen, Guangdong Province, heard the case of plaintiff Huang Yu'an v. Shenzhen Traffic Police Detachment, in which the plaintiff requested to revoke the administrative act of cancelling his driver's license in the case. The defendant learned from the Disabled Persons' Federation that the plaintiff was a mentally ill person, and his driver's license was subsequently cancelled. The defendant's defense only listed the evidence, and then directly explain that the plaintiff is regulated by *the provision of motor vehicle driving license application and use* and make the corresponding administrative action. The court finally did not support the plaintiff's claim, the reason is, "the plaintiff belongs to a class of mental disability, and by the identification agency, its suffering from mental and behavioral disorders, belong to the motorist driving license application and use of the provisions of the mental illnesses that prevent safe driving, the defendant city traffic police

detachment according to which the cancellation of driving permit decision, the factual basis is sufficient.”⁸

The author believes that the current law gives the traffic police department the right to judge whether a disease affects driving, “in the issuance of a driver’s license found that the applicant does not meet the conditions of application for a motor vehicle driver’s license, not issued a motor vehicle driver’s license”; “suffering from a disease that prevents the safe driving of motor vehicles, or excessive fatigue affects. The person who is suffering from a disease that prevents the safe operation of a motor vehicle, or excessive fatigue that affects safe driving, is not allowed to drive a motor vehicle”. These two provisions are not a problem, because the traffic police department’s initiative to find the most important way to reduce the number of sick drivers, you can not hope that others to denounce or the initiative to inform the person concerned. The problem lies in the sixth paragraph of Article 59 of the Code of Practice for Motor Vehicle Driving Licenses, which states that if there is a dispute, it will be referred to the identification department for identification. But it should be noted that the appraisal department’s appraisal results are medical appraisal, they are also difficult to judge whether the person can drive, in some administrative proceedings, the appraisal opinion states that the person is not fit to drive, so the lack of clarity in the subject of judgment will cause disputes between the parties and the traffic police department. The court approved the conclusion of the appraisal agency, and did not review the plaintiff’s fitness to drive. In fact, the appraisal body also did not determine whether the perpetrator’s mental illness reached the degree of influence driving specific criteria, thus injecting more subjective factors. In fact, in the lawsuit is only one kind of evidence, but also through the two sides of the cross-examination and court certification before the final admissibility. However, some practices in judicial practice deviate from this: some judicial officers blindly rely on psychiatric opinions, without careful analysis and review of the judgment as the basis for the case. (Zhang Aiyuan, 2011) As mentioned in the aforementioned administrative litigation in Shenzhen in 2020, the appraisal opinion states that the defendant belongs to the

“Regulations on the Application and Use of Motor Vehicle Driving Licenses” for mental illnesses that prevent safe driving⁹. The court that is directly adopted, and the law does not give the psychiatric identification agency to directly determine whether the appraisee belongs to the power of mental illness that prevents safe driving, and as a medical identification agency, it also does not fully have this ability. This is one of the reasons for the dispute between the driver and the traffic police department.

6. Lack of Condition Recovery Assessment and License Reinstatement Application Process Design

Medical studies have proposed that patients with obstructive sleep apnea syndrome can regain their driver’s license when their condition is adequately controlled, but they must be evaluated periodically to determine the effectiveness of treatment and the need for continued treatment. (John Stradling, 2016) At the same time, the medical community has emphasized the need to spread the disease to all stakeholders in order to avoid greater losses. (Sergio GarbarinoZ et al., 2016; Indira Gurubhagavatula, Miranda Tan & Aesha Jobanputra, 2020) Currently, China does not have a condition reinstated after the application for reinstatement of the driver’s license procedures, so the driver has been revoked after the driver’s license, you need to re-take the driver’s license examination, “motor vehicle driving license application and use of the provisions of paragraph 3: paragraph 1 of the seventh situation was cancelled motor vehicle driving license for less than two years, the motor vehicle driver to participate in road traffic safety laws, regulations and related knowledge examination after passing, you can resume The driving qualification. This process is very cumbersome and time consuming. The author believes that the establishment of a set of perfect condition recovery assessment system and license reinstatement application system will not only enable drivers who have reached the physical condition of driving to resume driving in a timely manner to facilitate their lives and protect their legitimate driving rights, but also reduce disputes and conflicts between the traffic police and the driver, while saving judicial resources.

7. Possible Design of Refined Legislation

Generally speaking, one of the major trends in the evolution of law in important areas of social governance is the continuous move from rough to refined. Refined legislation reflects governmental management, coordination and intervention in social areas where public safety and order are often involved, which are often not well coordinated and controlled by autonomous means and therefore require careful external regulation. Driving safety is clearly one of these social areas, so we need to design a refined and systematic set of laws to regulate the mental health safety of drivers.

7.1 Analysis of the Effectiveness and Rationality of the Regulation

First of all, the current Chinese laws and regulations in this area are too coarse and lack refined regulations and classifications, therefore, some legal norms are difficult to play a regulatory role in practice, but essentially become declaratory laws, traffic law enforcement departments lack the legal basis for actual operation, the effectiveness of the regulation is greatly reduced, for example, when an applicant with mental illness gets better, the traffic management department has no normative basis for judging whether he or she meets the driving conditions, so the applicant cannot obtain a driver's license in time to be effectively handled by the traffic police, which will cause great inconvenience to the applicant and increase his or her cost of living. In this regard, it can also be seen as the government's neglect and infringement of their legal driving rights protection.

Second, the regulation should fully consider the current situation in China, the number of Chinese drivers is large, the territory is vast, and the traffic conditions are complex, so that should be formulated to prevent drivers with mental illness from driving on the road, and should also enable applicants who have regained the ability to drive to obtain a driving license in a timely manner, and should also consider the issue of the cost of regulation, the analysis of the cost and benefit of social regulation is to provide a theoretical basis for social regulation. The analysis of the costs and benefits of social regulation is to provide a theoretical basis for social regulation, and also to facilitate the rational choice of governmental social regulation changes. In order to reduce the costs

and increase the benefits of governmental social regulation, it is necessary to improve and strengthen governmental social regulation. (He Lixing & Fan Huiling, 2007) The greatest possible social benefit should be obtained with the least possible legislative cost. For example, to establish a suitable screening system for mental illness, it is necessary to choose the appropriate screening method. Some medical screening methods, although more accurate, are costly and do not have the conditions for widespread promotion.¹⁰ Currently, even developed countries do not have the environment to adopt this method. The questionnaire method saves time and effort, and although the accuracy is not very high, it has the conditions to be widely promoted.

Finally, the protection of applicants' personal privacy should be fully considered in the development of legal norms. For example, for patients who have been diagnosed with mental illness, a web-based archive should be established for access by the traffic management, which is an effective strategy for timely detection of driver's license applicants suffering from mental illness. However, in the process of establishing the file repository and accessing this repository, the issue of personal privacy leakage may arise, and therefore, sound network protection should be adopted to prevent organizations or individuals other than the traffic management from accessing the system and stealing information about others' illnesses or other personal information. In addition, for information on mental illnesses other than those related to driving, medical institutions should be ambiguous or not uploaded to the database. In any economic form, the privacy of individuals should be respected and protected, especially in the digital economy, where data has become an important resource for enterprises to engage in business operations and a strategic asset for enterprises to maintain a competitive advantage, and enterprises have a very strong incentive to excessively collect and use consumer user data, while the implementation and widespread use of big data technology has provided enterprises with the technical. At the same time, the implementation and widespread use of big data technology has made it technically easier and more possible for companies to violate consumer privacy. Therefore, in the context of the

digital economy, personal privacy is at greater risk of being violated, and there is a greater need to comprehensively strengthen the protection of personal privacy in the digital economy in order to maintain personal privacy data security. (Tang Yaojia, 2021) In the current era of evolving big data technology and rising citizen awareness of privacy, the issue of the relationship between privacy protection and public safety continues to be a focus of discussion, and in the field of mental health driving safety, reasonable policies should be developed to ensure that personal privacy is not illegally violated by public authority.

7.2 Exploring the Path of Improving the Mental Health Safety Regulation of Chinese Drivers

Reasonable reference to foreign practices, refine the means of regulation, and improve the operability and perfection of norms.

There are many types of mental health disorders that affect driving ability, and the most representative ones are obstructive sleep apnea syndrome and epilepsy, the former of which causes daytime drowsiness as a direct cause of traffic accidents. (National Sleep Foundation, 2010) The obstructive sleep apnea syndrome is an important trigger for daytime sleepiness, so the regulation of this disease must be taken seriously. The study found that about 19.5% of epileptic patients were still driving and 62.5% of them still had seizures in the past year. For patients with epilepsy, the ability to act and the altered consciousness during seizures may affect the ability to drive a motor vehicle. (Chen JN, Tong X & Zhou D, 2015) If you have an attack while driving, the risk to driving safety is unimaginable. This shows the impact of both diseases on driving safety is very significant. As mentioned earlier, China's regulation of mental illness is very general and some lessons can be learned from the regulations of some developed countries or international organizations. For the regulation of obstructive sleep apnea syndrome, the European Union is at the forefront of the world, having developed a corresponding regulatory document in 2006, which was improved and modified in 2014. The improved bill systematically regulates driving for patients with obstructive sleep apnea syndrome in five aspects: first, it stipulates the access restrictions for patients with the disease, stipulating that those with moderate or severe

disease. Applicants may not obtain a driver's license until they have been adequately treated and have obtained a certificate from an authorized medical facility. Second, it provides that drivers should be screened to identify potential patients. Although no specific screening methods are specified, it may be wise for each country to specify its own screening policy, taking into account the different conditions in many EU countries. Third, the main means of regulation is provided, i.e., to stop issuing driving licenses to suspected patients, and to decide whether to issue driving licenses through testing, certification and follow-up assessment with medical institutions. Fourth, a follow-up assessment mechanism is established to evaluate whether the patient has returned to the level of physical condition for driving. This mechanism is the basis of the system that makes it possible for patients who have returned to driving condition to resume driving in a timely manner and to detect the re-emergence of the condition in patients who have returned to driving. Fifth, it establishes the conditions for patients to resume receiving a license, i.e., patients must be adequately treated and obtain a medical certificate from an authorized medical facility before being issued a driver's license.¹¹

The EU law systematically regulates the driving of patients with obstructive sleep apnea syndrome in these five areas, setting specific operational rules that prevent patients who are moderately to severely unfit to drive from obtaining a driver's license and ensure that patients can obtain a driver's license in a timely manner once they are physically fit to drive, while its assessment mechanisms and disease screening recommendations also facilitate the identification of potential patients and regulate them accordingly. The recommendations of the assessment mechanism and disease screening also lay the foundation for facilitating the detection of potential patients and regulating them accordingly. China's mental health driving regulations can be selectively applied to them. From a macro perspective, the same five perspectives can be applied to regulation. The admission and reinstatement mechanisms are two important thresholds for potential patients, so it is necessary to set up detailed admission and reinstatement systems. The means of regulation reveal the ways

and measures used to regulate specific mental illnesses, which embody the core of mental health driving regulations. From a microscopic perspective, strict criteria must be established for licensing access and reinstatement of licensing for law enforcement and medical personnel to cite as a basis for regulation, such as the EU in its 2014 Act, which defines moderate obstructive sleep apnea syndrome as no apnea and hypoventilation index (apnea-hypoventilation index) from 15 to 29 hours, and severe obstructive sleep apnea syndrome corresponding to 30 and an apnea-hypoventilation index of 30 or more. (Laurent M. Willems, Philipp S. Reif, Susanne Knake, Hajo M. Hamer, Constantin Willems, Günter Krämer, Felix Rosenow & Adam Strzelczyk, 2019) Specific enforceable standards are the cornerstone of the legal norms can really work. For the means of detecting warnings, the author believes that network database verification and questionnaires are feasible and more effective screening methods, for the current situation of Chinese drivers heavy, questionnaires can be very good cost savings, improve efficiency, for questionnaires out of suspicious patients, in further precise medical examination. The establishment of a network database requires the cooperation of hospitals and other medical institutions with the traffic safety department, as well as the assistance of network companies to improve the database and prevent the leakage of personal information.

References

- You Zhijun. (2003). "Neurosis" ≠ "mental illness", in *Family Chinese Medicine*, (8).
- Laurent M. Willems, Philipp S. Reif, Susanne Knake, Hajo M. Hamer, Constantin Willems, Günter Krämer, Felix Rosenow, Adam Strzelczyk. (2019). Noncompliance of patients with driving restrictions due to uncontrolled epilepsy, *Epilepsy & Behavior*, 91, 86–89.
- M. Almqvist, H. Selander, M. Falkmer, S. Vaz, M. Ciccarelli & T. Falkmer. (2015). Experiences of facilitators or barriers in driving education from learner and novice drivers with ADHD or ASD and their driving instructors, *Developmental Neurorehabilitation*.
- Daly BP, Nicholls EG, Patrick KE, et al. (2014). Driving behaviors in adults with autism spectrum disorders. *J Autism Dev Disord*, 44, 3119-3128.
- Zhang Aiyan. (2011). The Judicial Determination of Psychiatric Opinions, in *Legal Forum*, (4).
- John Stradling. (2016). Obstructive sleep apnoea: is it moving into primary care? *British Journal of General Practice*, 66(643), 149-151.
- Sergio GarbarinoZ et al. (2016). Sleep Apnea, Sleep Debt and Daytime Sleepiness Are Independently Associated with Road Accidents. A Cross-Sectional Study on Truck Drivers, *PLOS ONE*, 11(11) 1-12; Indira Gurubhagavatula & Miranda Tan & Aesha Jobanputra, (2020). Obstructive Sleep Apnea in Professional Transport Operations: Safety, Regulatory and Economic Impact, *SLEEP: Chest Reviews*, 158, 2172-2183.
- He Lixing, Fan Huiling. (2007). Cost and Benefit Analysis of Government Social Regulation, in *Zhongzhou Journal*, (5).
- Tang Yaojia. (2021). Model Choice and Regulatory System for Personal Privacy Data Protection in China, in *Journal of Theory*, 2021(1).
- National Sleep Foundation. (2010). Drowsy driving -stay alert, arrive alive. <http://drowsydriving.org/about/facts-and-stats/>. Accessed April 29, 2021.
- Chen JN, Tong X, Zhou D. (2015). A survey on the current status of motor vehicle driving accidents in patients with epilepsy in western China. In Chinese Medical Association (CMA), Chinese Society of Neurology (CSN). *Compilation of papers from the 18th National Neurology Academic Conference of the Chinese Medical Association* (below), (1).

¹ In 1988, the Regulations of the People's Republic of China on Road Traffic Management were enacted and replaced fifteen years later by the Law of the People's Republic of China on Road Traffic Safety adopted in 2003 and the Regulations on the Implementation of the Law of the People's Republic of China on Road Traffic Safety issued by the State Council in 2004. The main body of the current driving safety regime is the Law of the People's Republic of China on Road Traffic Safety, which was passed in 2003 and amended twice, in 2007 and 2011, and

the Regulations on the Implementation of the Law on Road Traffic Safety, which were passed in 2004. In addition, the Ministry of Public Security first issued the Regulations on the Application and Use of Motor Vehicle Driving Licences in 2006 and amended them twice, in 2009 and 2016, which are also important safeguards for China's driver safety system. In 2010, the Ministry of Public Security's Traffic Management Bureau issued the "Code of Practice for Motor Vehicle Driving Permits" as a guiding document, which is essentially a supporting regulation for the implementation of the "Regulations on the Application and Use of Motor Vehicle Driving Permits".

² According to Article 2(2) of the Regulations on the Application for and Use of Motor Vehicle Driving Licenses, the traffic management departments of the public security organs at the provincial level are responsible for the guidance, inspection and supervision of the work of motor vehicle driving license business in the province (autonomous region or municipality directly under the Central Government). The vehicle management offices of the traffic management departments of the public security organs in the municipalities directly under jurisdiction, and the vehicle management offices of the traffic management departments of the municipalities or equivalent public security organs at the same level are responsible for handling the motor vehicle driving permit business within their administrative jurisdictions. Although the regulations provide for specific implementation departments, there is no mention of specific criteria for whether mental illness affects driving, with the exception of the first paragraph of Article 13.

³ On November 12, 2015, the Police Department of Chongqing Municipal Public Security Bureau issued a notice on the restriction and cancellation of motor vehicle driving licenses held by mentally ill persons, requiring public security bureaus around the jurisdiction to verify the information on motor vehicle driving licenses held by mentally ill persons in storage through the "National Heavy Mental Patient Information Management System" and the "Comprehensive Application Platform for Public Security Traffic Management" by November 25, and to cancel the motor vehicle driving licenses of those who are indeed mentally ill persons in storage and whose motor vehicle driving licenses are registered in their own jurisdictions, in accordance with the principle of local management, after the respective vehicle control offices have taken screenshots and other means to keep the verification information.

⁴ According to data released by the Ministry of Public Security in January 2021, the number of motor vehicles in the country reached 372 million in 2020, including 281 million cars, and 456 million motor vehicle drivers, including 418 million car drivers. 33.28 million new motor vehicles were registered and 22.31 million new drivers were licensed in 2020. See <https://app.mps.gov.cn/gdnps/pc/content.jsp?id=7647257>, accessed on 15 March 2021.

⁵ Polysomnography (PSG): The gold standard method used to diagnose sleep disordered breathing, a comprehensive diagnostic modality performed in the laboratory. Used to define the severity of obstructive sleep apnoea syndrome, the primary outcome is the apnoea hypoventilation index (AHI), which is the number of apnoea plus hypoventilation per hour of sleep time.

⁶ See (2017) 0109. The First instance of Administrative trial No.46, Chongqing City, China Judgement Document website, <https://wenshu.court.gov.cn/>, accessed on April 8, 2021.

⁷ The author did not collect information about the proportion of traffic accidents caused by fatigue driving in the overall traffic accidents, while the prevalence of traffic accidents due to fatigue driving can be supported by other data. For example, according to the data published by the Traffic Administration of the Ministry of Public Security of China, fatigue driving was the main cause of highway traffic accidents in 2015, and traffic accidents caused by fatigue driving accounted for 8.41% of them and 6.21% of the fatalities.

⁸ See (2020) 0308. The First instance of Administrative trial No.745, Guangdong Province, China Judgement Document website, <https://wenshu.court.gov.cn/>, accessed on March 9, 2021.

⁹ The same as ¹⁰.

¹⁰ For example, polysomnography for obstructive sleep apnea syndrome is a way to detect the disease accurately, but it requires specialized medical instruments and is time-consuming and economically expensive.

¹¹ See Commission Directive 2014/85/EU, Directive 2014/85/EU, ANNEX, in EU Law Database, <https://eur-lex.europa.eu/>, accessed February 5, 2021.