



Commercial Motor Vehicle Medical Examinations — Act Now to Participate!

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This is not the call you want to receive. “Dr. Shufeldt, one of urgent care centers your group just purchased was named in a multimillion dollar suit. The allegation is that one of the center’s providers performed a DOT physical on a driver who was reportedly overweight, had Type II diabetes, had hypertension and undiagnosed sleep apnea. While driving, he fell asleep, crossed the median and struck a vehicle carrying a family of four. The truck driver and one teenage child survived. The driver admitted he fell asleep and your center is named, along with the transportation company in a wrongful death suit. By the way, they plan to seek punitive damages.”

I breathed a sigh of relief – it was an asset, not a stock purchase. We were immune from any of the award of damages. The previous owners remained on the hook.

I learned a couple things from this one call.

1. When buying clinics, make sure you have an asset purchase or, if the purchase has to be stock for tax reasons, make sure you are completely indemnified.
2. Never, ever take Department of Transportation (DOT) physicals lightly. As a group, the health histories and habits of these patients generally are dismal, yet they are driving huge machines across the country at high speed. One minor issue can lead to significant morbidity and mortality for the driver and many others who happen to be traveling along the same path.

The issue of risk associated with inappropriately completed and approved Commercial Vehicle Exams is becoming appre-

ciated. Fortunately, change is afoot and the urgent care industry is the perfect group to both promote and lead this federally mandated effort.

By way of background, in 2005 Congress passed the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA LU).¹ It established the Medical Review Board (MRB) that advises the Federal Motor Carrier Safety Administration (FMCSA) on medical concerns, including physical qualifications for drivers, medical standards and guidelines, the educational curriculum for medical examiners, and functional tests for drivers w/ disabilities. The MRB also is required to review all FMCSA medical standards and propose new science-based standards and guidelines.

Beginning May 21, 2014, all medical certificates issued to interstate truck and bus drivers must come from medical examiners listed on the National Registry. This rule requires that all medical examiner who conduct commercial motor vehicle exams shall:

- Maintain a valid state license to conduct medical examinations;
- Complete required training on FMCSA’s physical qualification standards;
- Pass the FMCSA Medical Examiner Certification Test to demonstrate knowledge of FMCSA’s physical qualification standards; and
- Complete refresher training every 5 years and recertification testing every 10 years.

Much of the following information was learned from Larry Earl’s excellent overview in the August, 2012 issue of *Med Monthly*. Dr. Earl is medical director of the National Academy of DOT Medical Examiners (www.nadme.org).

The National Registry of Certified Medical Examiners (National Registry) is a Federal program that promulgates requirements for healthcare professionals who perform physical qualification examinations on interstate commercial motor vehicle



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(CMV) drivers who want to be trained and certified in FMCSA physical qualification standards.² In order to become a certified medical examiner (ME) and be listed on the National Registry, (<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/home.seam>) healthcare professionals must complete training and testing on the FMCSA physical qualifications standards and guidelines.^{3,4}

FMCSA developed the National Registry of Certified Medical Examiners final rule as part of the agency's commitment to improving the medical oversight of interstate drivers, and preventing commercial vehicle-related crashes, injuries, and fatalities like the one described above. These regulations address four National Transportation Safety Board (NTSB) recommendations on comprehensive training for medical examiners, and tracking of driver medical certificates designed to prevent untoward events.

Here is the upside for urgent care owners and providers: currently, the only requirement to perform DOT exams is to be a licensed MD, DO, DC, NP or PA. Of the potential 400,000 pool of professionals currently available, the FMCSA estimates that only 40,000 will be needed to serve over 6 million commercial drivers.

Further estimates are that only a fraction of the 40,000 needed will be trained in time for the May, 2014 deadline. If 40,000 providers do get trained, they will on average be performing 150 exams per year. Dr. Earl's estimation, however, is that fewer than 10,000 will be trained by the deadline, which means that on average each provider will be performing 600 exams per year.

Inappropriate medical evaluation and certification of drivers has led to an increase in crashes. In some cases, drivers had documented cases of serious disqualifying conditions which, in the best case, contributed to and at worst, caused these fatal and disabling accidents.⁶ Thus, medical examiners need to be educated on the specific physical and mental demands associated with operating commercial vehicles. The standards and guidelines are designed to assist the certified medical examiner in making the individual determination whether a driver should be issued a medical certificate, and in achieving proficiency on the medical protocols necessary to adequately perform the medical examination.

The National Registry final rules address four NTSB recommendations on the requirements of a comprehensive medical oversight program for interstate drivers, which include the following elements:

- Individuals performing medical examinations for drivers are qualified to do so and are educated about occupational issues for drivers;
- A tracking mechanism is established that ensures that every prior application by an individual for medical certification is recorded and reviewed;
- Medical certification regulations are updated periodically to permit trained examiners to clearly determine

whether drivers with common medical conditions should be issued a medical certificate; and

- Individuals performing examinations have specific guidance and a readily identifiable source of information for questions on such examinations.

This law also directs FMCSA to remove from the registry the name of any medical examiner who fails to meet or maintain the qualifications and requirements established by the Secretary of Transportation for being listed in the registry and shall accept as valid only medical certificates issued by individuals on the national registry of medical examiners.⁷

After the completion of training, medical examiners are required to provide FMCSA with their state medical license, business address, phone number, and medical examiner training instructor. In addition, the applicant must produce several documents, including a statement that the applicant is capable of and willing to comply with FMCSA requirements; that upon request the provider would produce copies of documents showing evidence of completion of training, state licenses, etc.; and an affirmation that all of the information provided is true. Once the information is complete, the FMCSA issues an approval to take the certification exam, which is a computerized test consisting of 120 multiple-choice questions. Results will be given immediately at the testing site.

In addition to the initial certification test, certified medical examiners are required to complete "refresher" CME training every 5 years and they must recertify by retesting every 10 years in order to remain listed on the registry.

Certified examiners must electronically send a report of DOT exams to the FMCSA and will be required to have an electronic form of communication to receive updates to the DOT medical exam, NRCME training, and changes in FMCSA policy. When an investigation for improper certification occurs, the examiners must produce a copy of the exam within 48 hours upon FMCSA request.

The FMCSA may remove an examiner from the NRCME if he or she certifies a driver who has failed to meet the applicable published standards or makes a false claim that he or she has received the required training.

If you have an interest in pursuing this certification, it is advisable to obtain training early, well before the May, 2014 deadline. This is an area where urgent care can place a stake in the ground and help improve the safety of our roads. ■

References

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