

## **DOT Physical Examinations. Defending What We Have.**

The Motor Carrier Safety Act of 1935 granted the Interstate Commerce Commission the authority to require medical examinations of operators of commercial motor vehicles (CMVs). On January 1, 1954, the ICC began requiring a physical examination and a Certificate of Physical Evaluation. This responsibility was transferred to the Department of Transportation in 1970 after congress created the Department of Transportation. From 1970 until 1999, the authority to regulate motor carrier safety belonged to the Federal Highway Administration (FHWA). In 1999, the authority was transferred to the Federal Motor Carrier Safety Administration (FMCSA). Also in 1999, much tighter medical qualification standards for commercial drivers were announced by the DOT.<sup>1</sup>

Since that time, a number of new rules were enacted. These include waivers for insulin dependent diabetics, some drivers who do not meet the vision requirements, limb waivers, and other waivers and exemptions to the FMCSR. The insulin and vision waiver programs were discontinued and only individuals who are grandfathered under these programs were still eligible.

Recently new changes to the FMCSRs have been announced. The Motor Carrier Safety Reauthorization Act of 2005 was signed into law on August 10, 2005. This law requires a number of changes to the regulations governing the physical examination and qualification of CMV operators.

The Motor Carrier Safety Reauthorization Act of 2005 states that medical examiners have a key role in keeping the roadways safe and that they have a responsibility to protect the public and the patient. It states that medical examiners may be held accountable for poor or improper examination certification and that they must stay abreast of changes in the rules and regulations pertaining to the physical examination of CMV operators. The Act also requires the establishment of a medical review board and the creation of a Chief Medical Examiner who will report directly to the Secretary of Transportation. It requires the monitoring of medical examiners and the establishment and maintenance of a current national registry of medical examiners who are qualified to perform examinations and issue medical certificates. Examiners who fail to meet and maintain their qualification as medical examiners shall be removed from the registry. This law becomes effective on August 10, 2006.

The Act also requires the permitting of CMV operation by individuals who use insulin to treat diabetes mellitus. This will replace the discontinued waiver program. The FMCSA must begin revising the final rule published in the Federal Register on 9/3/2003 relating to persons with diabetes to allow individuals who use insulin to treat their diabetes to operate CMVs in interstate commerce. It also requires that the revised rule provide for individual assessment of applicants who are otherwise qualified under FMCSRs.

As chiropractors, we are fully trained in the performance of physical examinations and the interpretation of their findings. Therefore, it is only reasonable that chiropractors should be allowed to certify the physical qualification of drivers regulated by the

Department of Transportation (DOT). That is why in 1992 an amendment to the Federal Motor Carrier Safety Regulations (FMCSR) specifically permitted chiropractors to act as examiners. The current rule defines a medical examiner as:

*“... a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.”<sup>2</sup>*

Because of the Motor Carrier Safety Reauthorization Act of 2005, the process qualifying and registering medical examiners is currently being developed. The DOT wants to include chiropractors in the development process and has enlisted help from the profession by contacting groups such as the Federation of Chiropractic Licensing Boards for assistance in recruiting doctors for this process.

Ensuring that CMV drivers are fit to drive is a serious responsibility. Doctors who assume this responsibility serve the public good by helping to keep the roads safer and helping to prevent accidents. We have all treated victims of motor vehicle accidents. However, chiropractic is truly a preventative health model and we can serve a public health role by providing comprehensive quality physical examinations of commercial motor vehicle drivers.

Since the 1992 amendment to the FMCSR, many chiropractors have been serving as medical examiners for DOT regulated drivers. To serve as a medical examiner under the FMCSRs you must be fully aware of the FMCSR that pertain to the performance of physical examination of operators of CMVs. The examiner must be aware of the current regulations, any impending changes in the regulations, advisory criteria, and regulatory guidance that has been developed and published by the DOT. Perhaps most importantly, the medical examiner must know when to refer the driver to another specialist for qualification if he or she suspects a condition which may interfere with the safe operation of a CMV.

It is important for a number of reasons that chiropractors maintain our privilege of acting as medical examiners. The greater the number of chiropractors who provide quality medical examinations of CMV operators, the easier it will be to maintain our professional presence in this area of occupational medicine. Acting in this capacity, we are held at par with other health care professionals. It provides us with an even playing field on which to compete in the health care market. By permitting chiropractors to act as medical examiners, the DOT is tacitly confirming that chiropractic is a mature and reliable health care profession that has earned the public trust. This endorsement goes a long way toward counteracting the negative images of our profession that were portrayed by organized medicine in the past.

I can also attest from personal experience, that when medical doctors learn you are performing medical qualification examinations of CMV operators their level of respect for chiropractic, and you in specific, is elevated. It builds inter-professional trust and

ultimately leads to more referrals. It is important that as a profession we take advantage of every opportunity to increase public awareness of, and trust in, our profession. The negative stereotypes of too many years still haunt chiropractic to this day.

With decreasing insurance reimbursement, the slow but steady decline in covered services by a chiropractor, and what may be the slow inexorable march toward some form of national health insurance or national health insurance regulation, it is important that the profession hold onto the right to provide whatever services we currently provide. At some point in the future, if we are in a fight for our right to practice as we see fit, having allies in the business and industrial communities may make the difference between being able to practice at our full potential or being even more severely limited by the insurance schema of the time.

Acting as a medical examiner for the qualification of CMV drivers can be a rewarding experience. It allows you to develop relationships in industry that you may not otherwise have had access to. It can ultimately result in increased workers' compensation cases, a company insisting on the inclusion of chiropractic benefits in its employee health plan, and increased public awareness of your practice. Acting as a medical examiner you are also helping maintain chiropractic's position in the health care community and elevating its stature among other health care providers and the public. But it is also rewarding to know that you are serving in a true public health role by helping to keep the roads safer for your family and community.

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<sup>1</sup> The DOT Medical Examination. A Guide to Commercial Drivers' Medical Certification. Hartenbaum NP, OEM Press Beverly, MA 2003

<sup>2</sup>§ 49 CFR 390.5