

J. J. Keller's FLEETMENTOR®

DOT MEDICAL EXAMINATIONS

INTRODUCTION

The medical examination required under the Federal Motor Carrier Safety Regulations (FMCSRs) can be a career-maker or a career-breaker for professional drivers.

This underlying fear of being medically unqualified is in the back of the mind of just about every truck driver. He or she knows that the sedentary lifestyle of being on the road places him or her at risk, in addition to family health histories, injuries, and illnesses. This same concern is felt by every safety manager. The ongoing driver shortage magnifies the effect of the loss of just one driver to DOT physical disqualification. It takes both time and money — neither of which a motor carrier can afford — to replace a dependable, seasoned driver.

WHO IS SUBJECT TO THE REQUIREMENT?

Let's start out by answering the basic question of who must have a DOT medical examination.

Many carriers have mistakenly thought only their CDL drivers must have a DOT medical examination. Applicability to the physical (and the entire DQ file) is based on the operation of one of the following commercial motor vehicles (CMV) in interstate commerce:

- Vehicles with a gross vehicle weight (GVW) or gross vehicle weight rating (GVWR), or gross combination weight (GCW) or gross combination weight rating (GCWR) of 10,001 pounds or more; or
- Vehicles designed to transport more than 8 passengers (including the driver) for compensation; or
- Vehicles designed to transport more than 15 people; or
- Vehicles transporting hazardous materials that require the vehicle to be placarded.

The criterion in this definition that causes confusion is the vehicle weight. The general weight criterion for which a CDL is needed is 26,001 pounds. The weight criterion for which a physical is needed is 10,001 pounds. So, interstate drivers of vehicles between 10,001 and 26,001 pounds (not hauling hazmat) need to have a medical exam but do not need to have a CDL.

For intrastate drivers, it depends on what the state has adopted for the weight criterion. A number of states use the same 10,001 pound criterion as is found in the FMCSRs. Other states have increased the weight limit to anywhere from 12,000 pounds up to 26,001 pounds (which does coincide with the CDL requirements). A few states also have grandfather clauses or other exemptions that may except certain drivers from the medical requirement.

CDL-HOLDERS

States are required to make sure anyone applying for or renewing a commercial driver's license is qualified under 49 CFR Part 391. When the Federal Motor Carrier Safety Administration (FMCSA) published its rule that ties a CDL with maintaining current medical certification, it required state licensing offices to distinguish between four types of drivers. Only one is subject to the federal rule.

A driver must "self-certify," or in other words notify the state, which type of driver he or she wishes to be classified as. Selecting incorrectly could result in a driver being limited to intrastate commerce only. The four types of CDL drivers and their definitions are provided below:

- Non-excepted interstate — operates in interstate commerce, is qualified under Part 391, and is required to obtain a medical card.
- Excepted interstate — operates in interstate commerce but is exempt from having to obtain a medical card under Part 391.
- Non-excepted intrastate — operates only in intrastate commerce and is subject to state qualification rules.
- Excepted intrastate — operates in intrastate commerce but is exempt from state qualification rules.

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All “non-excepted interstate” drivers will have to provide the state with a current medical card and all future cards. If a driver’s medical card or medical variance expires, the licensing state must remove the driver’s interstate CMV driving privileges within 60 days.

CANADIAN DRIVERS

Those Canadian drivers who cross the border and operate CMVs in U.S. commerce are expected to meet all FMCSA requirements, including the DOT physical qualifications.

The United States and Canada entered into a Reciprocity Agreement, effective March 30, 1999, recognizing that a Canadian commercial driver's license is proof of medical fitness to drive. Canadian commercial motor vehicle (CMV) drivers are no longer required to have in their possession a medical examiner’s certificate if the driver has been issued, and possesses, a valid commercial driver’s license issued by a Canadian province or territory.

There are few exceptions to the reciprocity. Canadian drivers who have one of the following conditions are not medically qualified to operate a CMV in the United States: insulin-dependent diabetes, epilepsy, or a hearing impairment as defined in §391.41(b)(11). In addition, Canadian drivers who do not meet the medical fitness provisions of the Canadian National Safety Code for Motor Carriers but who have been issued a waiver by one of the Canadian Provinces or Territories are not qualified to drive CMVs in the United States.

HOW DO WE CHOOSE A MEDICAL EXAMINER?

Now that you know who must have a medical examination, let’s explore who can conduct the actual physical.

A medical examiner is defined 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.

According to §391.43, a medical examiner must also be knowledgeable of the specific physical and mental demands associated with operating a commercial motor vehicle and the requirements of Part 391, including the Medical Advisory Criteria. The Criteria was prepared by the FMCSA as guidelines to aid the medical examiner in making the qualification determination. He or she must also know and be proficient in the use of the DOT medical protocols necessary to adequately perform the medical examination required by the FMCSA.

DOT medical exams for interstate CMV drivers must be conducted by individuals listed on the National Registry of Certified Medical Examiners. To be listed on the Registry, examiners must undergo training and pass a certification exam, and must be periodically re-evaluated. The Registry is available online at: nationalregistry.fmcsa.dot.gov. The motor carrier must have documentation in the driver’s qualification file showing that the examiner was listed on the Registry at the time of the exam.

WHAT PHYSICAL STANDARDS DO DRIVERS NEED TO MEET?

The FMCSA has 13 areas of medical concern. According to §391.41(b) a driver is medically qualified if he/she:

1. Has no loss of a foot, a leg, a hand, or an arm, or has been granted a waiver pursuant to § 391.49, §391.41(b)(1);
2. Has no impairment of:
 - A hand or finger which interferes with prehension or power grasping; or
 - An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or has been granted a waiver pursuant to §391.49, §391.41(b)(2);

The burden of the responsibility is placed on the motor carrier since they are DOT-regulated, not the examiner.

3. Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control, unless the person meets the requirements in §391.46;
4. Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;
5. Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his/her ability to control and drive a motor vehicle safely;
6. Has no current clinical diagnosis of high blood pressure likely to interfere with his/her ability to operate a motor vehicle safely;
7. Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his/her ability to control and operate a motor vehicle safely;
8. Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;
9. Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his/her ability to drive a motor vehicle safely;
10. Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;
11. First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951;
12. Does not use a Schedule I drug or other substance identified in Appendix D to this subchapter, an amphetamine, narcotic, or any other habit-forming drug. For non-Schedule I drugs, there is an exception. A driver may use such a substance or drug if the substance or drug is prescribed by a licensed medical practitioner who is familiar with the driver's medical history and assigned duties and who has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a motor vehicle;
13. Has no current clinical diagnosis of alcoholism.

The medical examiner cannot use his or her judgment in the case of vision, hearing, insulin-using diabetes, and epilepsy.

Of those items listed above, three are absolutes. In other words, the medical examiner does not have the discretion to certify the driver as being medically qualified. The other standards are guidelines, and the examiner could technically still qualify a driver. The medical examiner cannot use his or her judgment in the case of vision, hearing, and epilepsy.

As you can see, a specific age is not a disqualifying factor, as many mistakenly believe. Older drivers are also not required to have physicals more often, unless there is a specific area of concern that an examiner wants to keep an eye on in line with the requirements above. To do otherwise could be considered age bias.

Each area of physical qualification has a corresponding Medical Advisory Criteria offering more explanation to the examiner. There are also reports and guidance that should be referenced by the examiner that go into even greater detail on specific medical conditions.

ADDITIONAL TESTS

The medical examiner has been given authority based on his/her clinical judgment to decide whether additional information should be obtained from the driver's treating physician. Additional tests may also be warranted based on the patient's health history or findings of the physical exam. The examiner

could request an evaluation from a specialist before certifying drivers with specific conditions (e.g., sleep apnea) as noted in the Medical Advisory Criteria.

EXEMPTIONS

A driver who is otherwise medically qualified and denied certification may apply for a medical exemption in certain instances.

An exemption is a temporary regulatory relief from one or more of the FMCSRs given to a person or class of persons subject to the regulations, or who intend to engage in an activity that would make them subject to the regulation. An exemption provides the person or class of persons with relief from the regulations for up to two years, but may be renewed.

FMCSA currently has an exemption program for vision and offers a certificate program for drivers with limb impairments. FMCSA also has a special certification program for drivers with missing and/or impaired limbs. Even though these are the current programs, a driver may still apply for an exemption from any of the other standards. Exemptions are granted only in those instances where the driver can show that safety would not be diminished by granting the exemption. The exemption process is outlined in Subpart C of Part 381, and the Skills Performance Evaluation (SPE) Certificate application is detailed in §391.49. All applications for exemptions to §391.41 appear in the Federal Register, including the initial application and the final disposition (granted or denied) by the Administrator.

The medical guidelines for intrastate drivers may be less restrictive. Intrastate exemptions (a.k.a., waivers) are sometimes issued for medical conditions that would never receive exemption consideration on the federal level. You would have to refer to your state agency's requirements for additional details.

WHOSE RESPONSIBILITY IS THE PHYSICAL?

Many carriers think the driver is supposed to let them know when his/her card is about to expire, and many drivers feel that so long as the carrier doesn't bring it up, they won't mention it because it's the carrier's responsibility. Who's correct? Neither. Responsibility for the DOT Medical Examination lies on both the driver and the motor carrier.

Under §390.5(e), the motor carrier and its employees must know and apply the regulations. The driver is not absolved of responsibilities if the motor carrier neglects to remind him or her of the expiration date of the card. The driver has a copy of his or her card on his or her person and should be well aware of the impending expiration date. In the same respect, the motor carrier is expected to maintain the DQ files, including demonstrating management controls such as monitoring when each item is due to expire.

According to §391.11, the driver cannot operate and the motor carrier shall not allow the driver to operate a CMV if the driver is not qualified in accordance with Part 391. Sec. 391.41 places a certain degree of responsibility on the driver by stating that a person shall not operate a CMV if he or she is not physically qualified to do so.

Each driver is required to complete the Health History section on the first page of the examination report and certify that the responses are complete and true. The driver must also certify that he/she understands that inaccurate, false, or misleading information may invalidate the examination and medical examiner's certificate. A driver who knowingly misrepresents his or her health history on the physical form is violating §390.35. A civil penalty may also be levied against the driver under 49 U.S.C. 521(b)(2)(b), either for making a false statement or for concealing a disqualifying condition. At a minimum, deliberate omission or falsification of information may invalidate the examination and any certificate issued based on it.

In the same respect, a motor carrier that "doctor shops" until it finds an examiner who will qualify an otherwise unqualified driver is also committing a similar offense. Remember that all parties at a motor carrier who are responsible for safety compliance are also subject to fines and penalties according to §390.37.

WHAT FORMS DO WE USE?

Long-form physical

The correct and most recent Medical Examination Report Form (a.k.a., long-form physical) appears in §391.43.

Responsibility for the DOT Medical Examination lies on both the driver and the motor carrier.

If a motor carrier does not supply the form to the medical examiner, it is important to make sure the correct form is being used. Use of the incorrect form could lead to a medically unqualified driver being certified because the criteria and instructions to the examiner are outdated.

The DOT physical form is not listed in §391.51 as a required Driver's Qualification (DQ) file item. The medical examiner's certificate is a requirement however. The medical examiner is required to keep the long-form original on file at his/her office. If a carrier obtains a copy, they are not required to retain it in the DQ file.

It is a motor carrier's responsibility to ensure that the examiner selected is knowledgeable of the regulations. As a best practice, many carriers request copies of the physical exam forms to review, as they are ultimately held responsible for using only medically qualified drivers.

If a copy of the long-form physical is requested, the carrier have the driver sign a release under HIPAA privacy laws.

The Americans with Disabilities Act (ADA) requires that an employer keep medical information on applicants or employees confidential per 29 CFR 1630. Under ADA, medical information such as the long form cannot be stored in a personnel file or any file resembling a personnel file which the DQ file does and often serves as. The long form must be kept in a separate, confidential medical file away from your DQ file.

Wallet card

When a driver passes a DOT medical exam, the examiner must complete a Medical Examiner's Certificate (a.k.a., wallet card), meeting the prescribed format in §391.43, and provide the original to the driver.

If a motor carrier does not supply the form to the clinic, it is important to make sure the correct form is being used. If you see that the driver returns with an obsolete form, carriers need to contact the examiner's office as soon as possible and ask that the correct form be completed instead.

Similarly, a form with inaccurate or missing information is a violation of the FMCSRs. The examiner or driver — whoever entered incorrect information or omitted items — needs to be contacted so the form can be revised so it is a complete, accurate document. The carrier must have an eye for detail because an incorrect or incomplete form discovered during a roadside inspection could result in a driver being placed out of service. If the form is audited during a compliance review, it may result in a violation.

For CDL drivers, the state licensing agency will enter information from the driver's medical card into the driver's motor vehicle record (MVR). The MVR must be used in place of the medical card to verify that the driver is physically qualified. This means the motor carrier employer must obtain the MVR instead of the medical card and place the MVR in the driver's qualification file, and must update the MVR each time the medical card is renewed. A non-excepted, interstate CDL/CLP holder without medical certification status information on his/her driving record is designated "not-certified" to operate a CMV in interstate commerce.

When a CDL driver gets a new medical card, the state licensing agency will need time (up to 10 days) to enter the new medical information into the driving record. During this interim period, the motor carrier needs to use a copy of the medical card as proof that the driver is still qualified. A motor carrier may use a copy of the driver's current medical examiner's certificate — that was submitted to the state — for up to 15 days from the date it was issued, as proof of medical certification. After 15 days, the employer would need an updated MVR in the DQ file to show proof of medical certification. Drivers must turn in their new medical cards to the state licensing agency as quickly as possible to prevent the carrier from missing the deadline.

The FMCSA does not address who should pay for medical examinations.

WHO PAYS FOR THE PHYSICAL?

The FMCSA does not address who should pay for medical examinations. This would be a matter of company policy and/or labor arbitration and possibly state employment laws.

Keep in mind that the issue of payment cannot be a deterrent for completion of the exam. The driver must be medically qualified prior to getting behind the controls of a CMV according to §391.11(b)(4). To do otherwise is a violation.

WHAT IF THE DRIVER HAS AN INJURY OR ILLNESS BETWEEN REQUIRED EXAMS?

Any driver who has received physical or mental injury or disease which has impaired his/her ability to perform normal duties must have a physical examination and obtain a new medical examiner's certificate. However, if a driver returns from a medical leave, a new physical is not necessarily required unless the employer questions the driver's abilities to perform his/her job duties. If the driver has a current, valid medical examiner's certificate, a motor carrier can continue to accept this card if the driver's abilities are not in question. In some cases, a motor carrier may wish to send a driver to a medical examiner who is familiar with the DOT regulations rather than accept a driver's family physician's opinion, especially if that physician is not familiar with the FMCSRs. The FMCSA's Interpretations to §391.45 emphasize the carrier's role and responsibility to ensure that only medically qualified drivers are put behind the wheel.

PENDING STATUS

If the driver is disqualified, it nullifies any time left on a current medical card. The driver cannot operate a CMV in this status.

However, if the driver is given a "pending status," this means the examiner needs more information to make a determination following a new exam. This status is only given to a driver when there is still time left on the previous med card. The driver is qualified up to 45 days as the driver provides additional medical information and/or testing. The driver may continue to operate a CMV while in this status.

Keep the following in mind:

- If the med card expires during these 45 days and the driver hasn't provided the additional information, the driver becomes medically disqualified because of the stipulation to have time left on the previous medical card.
- If the driver fails to provide the additional information in those 45 days, the driver becomes medically unqualified even if time remains on the previous medical card.
- If the driver provides medical data that the medical examiner feels disqualifies the driver, he/she becomes disqualified even if there is time left on the old medical card and time remains in the 45-day pending status period.

IS A DOT DRUG TEST REQUIRED AT RECERTIFICATION?

There is often confusion about the DOT physical and whether or not a routine drug test should accompany the exam.

First, it is important to note that the DOT medical exam is not exclusive to just CDL-holders. It is applicable to drivers who operate a CMV as defined in §390.5 (see the applicability outlined earlier). This definition includes both CDL and non-CDL types of vehicles. Based on this alone, DOT drug and alcohol tests cannot be conducted on a great number of drivers who are subject to DOT physical requirements. DOT drug and alcohol testing is only applicable to those individuals operating a CMV as defined in §382.107/§383.5 (i.e., requires a CDL). Anyone operating a vehicle not requiring a CDL cannot have a DOT drug or alcohol test conducted on him/her. Testing such a person leaves a question of legalities.

On the other hand, the medical examiner may request a non-DOT drug test if it is deemed appropriate under Laboratory and Other Testing on the exam form.

Convenience versus regulations

Many carriers, out of convenience, send a driver for a DOT pre-employment drug screen at the same time as the DOT physical. Technically, a carrier could send the driver to two separate locations on two separate days, since the requirements are not tied together.

When an existing driver goes in for a recertification of his/her DOT physical, a DOT drug test should not be conducted. It would be a misrepresentation of the test as being required under Part 382, if a carrier were to do so. (This is found in §382.113.)

Obsolete requirements

Prior to the creation and implementation of Part 382, DOT drug testing was positioned in Part 391, Subpart H. Much of today's confusion comes from these regulations that have been removed from Part 391 and cease to be a requirement.

In the past, a DOT drug test was required at the time of a physical recertification. However, under now obsolete Part 391, Subpart H, this was removed from the regulations when Part 382 was implemented January 1, 1995, for carriers with more than 50 drivers; and January 1, 1996, for carriers with less than 50 drivers.

If a carrier requires a drug or alcohol test during recertification of physical requirements, it must be represented to the driver as a non-DOT test under their company policy. Company policy tests cannot be counted toward DOT compliance.

WHAT IS THE MEDICAL REVIEW BOARD?

What does the future of DOT physical requirements hold? To help determine the best course of action, the FMCSA has established a Medical Review Board (MRB). The MRB will provide a critical service in the Department's role of improving highway safety by ensuring that drivers are physically qualified to operate commercial motor vehicles in interstate commerce.

The MRB is composed of five of the nation's most distinguished and scholarly practicing physicians. These physicians were chosen from a field of many qualified candidates who possess a wide variety of expertise and experience. MRB members specialize in the areas most relevant to the bus and truck operator population. The MRB will provide information, advice, and recommendations to the Secretary of Transportation and the FMCSA Administrator on the development and implementation of science-based physical qualification standards. The MRB will review and update all current physical qualification standards and develop new ones as needed.

CONCLUSION

Using only medically qualified drivers should be a priority for motor carriers. The moral obligation (the safety of the driver and motoring public) should be enough of a motivating factor. But, if not, just think of how much time and money it would cost your carrier in fines, penalties, litigation, and insurance rates if an unqualified driver were to get in an accident and it is discovered the driver didn't have a current card or shouldn't have been issued a card. The reputation of your organization may never recover.

Using only medically qualified drivers should be a priority for motor carriers

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