

National Transportation Safety Board

Office of the Chair

Washington, DC 20594



September 26, 2022

Dockets Operations
US Department of Transportation
1200 New Jersey Avenue SE
West Building Ground Floor
Room W12-140
Washington, DC 20590-0001

Re: Docket Number FMCSA-2022-0111

Dear Sir or Madam:

The National Transportation Safety Board (NTSB) has reviewed the Federal Motor Carrier Safety Administration (FMCSA) request for comments titled "Qualifications of Drivers: Medical Examiner's Handbook and Medical Advisory Criteria Proposed Regulatory Guidance," published at 87 *Federal Register* 50282 on August 16, 2022. The request for comments references the updated draft Medical Examiner's Handbook (MEH) available at <https://www.regulations.gov/docket/FMCSA-2022-0111/document>, as well as updated Medical Advisory Criteria included therein.¹

According to the request for comments, the goal of the updated MEH and related Medical Advisory Criteria is to provide information about regulatory requirements and guidance to certified medical examiners (MEs) who perform physical qualification examinations of interstate commercial motor vehicle (CMV) drivers, so that MEs may consider this information and guidance when making physical qualification determinations in conjunction with established best medical practices. The FMCSA proposes to publish the MEH on the FMCSA website as an update to a previous MEH version that FMCSA withdrew from use in 2015. The FMCSA proposes to also publish the updated Medical Advisory Criteria at 49 *Code of Federal Regulations* part 391, Appendix A.

The NTSB strongly supports the FMCSA's plan to publish an updated MEH. The NTSB has recommended that the FMCSA provide MEs with specific guidance and a readily identifiable source of information for questions on physical qualification

¹ The Medical Advisory Criteria, contained at 49 *Code of Federal Regulations* part 391, Appendix A, are FMCSA guidelines to help medical examiners assess a driver's physical qualification. These guidelines are strictly advisory and were established by the FMCSA after consultation with physicians, states, and industry representatives, and, in some areas, after consideration of recommendations from the FMCSA Medical Review Board and Medical Expert Panels.

examinations ([H-01-20](#)).² The previous version of the MEH contained such guidance; however, it was withdrawn from use 7 years ago and was not replaced.³ The FMCSA's publication of an updated MEH would be an important component of a comprehensive medical oversight program for interstate commercial drivers, and a significant step toward addressing the intent of Safety Recommendation H-01-20. The FMCSA should publish an updated MEH on a priority basis.

In addition to providing regulatory guidance, the proposed updated MEH includes educational medical content that is designed to help MEs better understand and more effectively evaluate potential impacts of medical conditions and their treatments on CMV driving safety. This content has been expanded in some areas and reduced in others compared to the previous MEH. The inclusion of educational content in the MEH is vital to making the MEH a useful tool for helping MEs of various professional backgrounds make physical qualification determinations in conjunction with established best medical practices.

The information and guidance presented in the proposed MEH and Medical Advisory Criteria were developed with participation of the FMCSA Chief Medical Officer and the FMCSA Medical Review Board. A comprehensive medical review of this information is outside the scope of these comments. Instead, the following comments address how selected sections of the proposed MEH relate to open NTSB safety recommendations to the FMCSA.

Obstructive Sleep Apnea (OSA)

The NTSB has recommended that the FMCSA develop and disseminate guidance regarding the identification and treatment of individuals at high risk of OSA, emphasizing that drivers who have effectively treated OSA are routinely approved for continued medical certification ([H-09-16](#)).⁴ The NTSB has also recommended that the FMCSA make the 2016 Medical Review Board/Motor Carrier Safety Advisory Committee (MRB/MCSAC) recommendations on OSA screening, diagnosis, and treatment (2016 MRB/MCSAC OSA recommendations) easily accessible as guidance

² The NTSB issued Safety Recommendation H-01-20 to the FMCSA as a result of our investigation of the May 9, 1999, crash of a motorcoach that ran off Interstate 610 in New Orleans, Louisiana. Safety Recommendation [H-01-20](#) is classified "Open–Acceptable Response." Use the [CAROL Query](#) for more information about NTSB safety recommendations.

³ Although the previous MEH was withdrawn from use in 2015, a copy, marked as no longer in use, is available on [the FMCSA website](#).

⁴ The NTSB issued Safety Recommendation H-09-16 as a result of our investigation of the July 26, 2000, collision of a tractor-trailer with a Tennessee Highway Patrol vehicle trailing construction vehicles near Jackson, Tennessee. Safety Recommendation [H-09-16](#) is classified "Open–Unacceptable Response."

to MEs ([H-17-49](#)).⁵ The proposed updated MEH includes a new section discussing OSA (page 51, section 4.8.3.6). This section presents limited basic educational information about OSA and includes a statement that, “if treated, moderate-to-severe OSA does not preclude certification.” This section also states, “For additional guidance on certification of drivers with moderate-to-severe OSA, one source MEs could consider is the November 21, 2016, OSA advisory recommendations.” The section then provides a direct link to the 2016 MRB/MCSAC OSA recommendations.

Publication of the MEH including this OSA section would likely satisfy Safety Recommendations H-09-16 and H-17-49, but only if the link to the 2016 MRB/MCSAC OSA recommendations is retained in the final published MEH. Additionally, the MEH text introducing the link to the 2016 MRB/MCSAC OSA recommendations should be clarified to indicate that the OSA recommendations also address OSA screening and diagnosis. As proposed, the text indicates only that the recommendations address certification of drivers who are diagnosed with moderate-to-severe OSA.

Non-Insulin-Treated Diabetes Mellitus

The NTSB has recommended that the FMCSA develop and publish explicit guidance for MEs to use when making medical certification decisions regarding drivers with diabetes who are not treated with insulin ([H-18-51](#)).⁶ In response, the FMCSA has stated that it is developing a form to assist MEs with determining whether individuals with non-insulin-treated diabetes should be medically certified; this form will be optional, but its use will be encouraged. The form remains under development, to be published in the *Federal Register* as an Office of Management and Budget approved form.⁷

Although the proposed updated MEH extensively discusses the regulations regarding insulin-treated diabetes (page 75, section 4.12), it provides only limited mention of non-insulin-treated diabetes (page 79, section 4.12.5), pointing out that no FMCSA medical standards exist for this condition. Some examples are given of other conditions that might be associated with non-insulin-treated diabetes and that might be evaluated under existing FMCSA medical standards. Other information about non-insulin-treated diabetes that was included in the previous MEH has been removed.

⁵ The NTSB issued Safety Recommendation H-17-49 as a result of our investigation of the October 23, 2016, collision of a motorcoach that ran into the rear of a stopped combination vehicle near Palm Springs, California. Safety Recommendation [H-17-49](#) is classified “Open–Unacceptable Response.”

⁶ The NTSB issued Safety Recommendation H-18-51 as a result of our investigation of the May 14, 2016, motorcoach run-off-the-road crash near Laredo, Texas. Safety Recommendation [H-18-51](#) is classified “Open–Acceptable Response.”

⁷ Correspondence related to Safety Recommendation [H-18-51](#) may be viewed using the [CAROL Query](#). A draft of the non-insulin-treated diabetes assessment form is available on the [FMCSA website](#).

The scope of information about non-insulin-treated diabetes included in the revised MEH is a step backwards from the previous MEH, and a missed opportunity for progress toward addressing Safety Recommendation H-18-51 in advance of the final development and approval of a non-insulin-treated diabetes assessment form. The MEH should include additional general educational information about diabetes in the context of CMV operations, as well as more-explicit advisory guidance to MEs on the evaluation and potential certification of CMV drivers with non-insulin-treated diabetes. MEs should be actively encouraged to consider the results of a recent hemoglobin A1C test, any symptomatic hypoglycemia episodes, and detailed findings from periodic evaluations for diabetic complications whenever evaluating a driver with non-insulin-treated diabetes. As proposed, the MEH does not address Safety Recommendation H-18-51.

The NTSB also has recommended that the FMCSA provide clear and readily searchable guidance for MEs to use when evaluating commercial drivers who are not known to have diabetes but who have glucose (sugar) in their urine ([H-17-50](#)).⁸ Sugar present at a detectable level in a driver's urine is not normal and usually indicates the driver has diabetes. MEs conduct urine sugar testing as part of each CMV driver physical qualification examination. However, some MEs may have limited knowledge and experience diagnosing or treating diabetes, and the ME role is not that of a medical provider for the examinee. Consequently, the FMCSA should provide guidance that helps MEs easily and appropriately interpret and act upon urine sugar results, even when a driver has no established diabetes diagnosis. Such guidance would facilitate informed medical certification decision making and would help MEs connect drivers who have undiagnosed diabetes to appropriate medical care.

The proposed MEH states that protein, blood, or sugar in the urine may be an indication for further testing to rule out any underlying medical problem such as diabetes, uncontrolled hypertension, and kidney disease, and that, if there is an excessive amount of sugar, blood, or protein in the urine, the ME should ask about diabetes or possible kidney disease. The MEH states that the ME may need to consult the driver's treating provider to gather additional information (page 80, section 4.12.5, and page 105, section 6.2.1.1.2). This language is not clear. It introduces the unnecessarily subjective term "excessive amount," fails to state the particular significance of urine sugar to diabetes, and provides no clarity about how the ME should ask about diabetes, especially if a driver does not have a known diagnosis. Without additional clarification, the proposed MEH does not adequately address Safety Recommendation H-17-50. The MEH guidance could be clarified by stating that any sugar detected on a driver's urine test should prompt the ME to consider diabetes,

⁸ The NTSB issued Safety Recommendation H-17-50 as a result of our investigation of the October 23, 2016, collision of a motorcoach that ran into the rear of a stopped combination vehicle near Palm Springs, California. Safety Recommendation [H-17-50](#) is classified "Open–Acceptable Response."

and would be an appropriate reason for the ME to send a driver without a known diabetes diagnosis to a treating provider for further diabetes evaluation.

Requesting Complete Lists of Medications and Medical Conditions

The NTSB has recommended that the FMCSA provide explicit guidance to encourage MEs to request a complete list of current medical conditions and medications when obtaining supplemental information from a commercial driver's treating healthcare provider ([H-18-7](#)).⁹ The MEH notes that the CMV Driver Medication Form, MCSA-5895, exists as an optional tool for requesting a complete list of medications (page 5, section 1.4.6, and multiple other mentions) but does not recommend or encourage use of the form.¹⁰ The NTSB believes that use of the form should be encouraged in the MEH. The NTSB further believes that language should be added to the MEH to encourage MEs to request a complete list of medications and medical conditions whenever obtaining supplemental information from a treating provider. Without these changes, the proposed MEH does not address Safety Recommendation H-18-7.

In conclusion, the NTSB strongly supports the FMCSA's plan to publish an updated MEH. The publication of the MEH would potentially address several open NTSB safety recommendations to the FMCSA. These include a recommendation to provide MEs with a source of information for questions on physical qualification examinations, and two recommendations related to guidance on identification and certification of drivers with OSA. The updated MEH should be expanded to include additional guidance to MEs regarding evaluating drivers with non-insulin-treated diabetes and drivers without a diabetes diagnosis who have glucose detected in their urine. The updated MEH should also explicitly encourage MEs to request a complete list of current medications and medical conditions whenever obtaining supplemental information from a driver's treating provider.

Thank you for the opportunity to provide comments.

Sincerely,

Jennifer Homendy
Chair

⁹ The NTSB issued Safety Recommendation H-18-7 as a result of our investigations of two separate crashes involving school buses in November 2016. Safety Recommendation [H-18-7](#) is classified "Open–Unacceptable Response."

¹⁰ The FMCSA published a request for comments on renewal of the CMV Driver Medication Form at 87 *Federal Register* 55077 on September 8, 2022 ([Docket Number FMCSA-2022-0133](#)), with comments due November 7, 2022.