

Telehealth Exams and DOT Drivers

By Dr. Lawrence Earl, MD; National Academy of DOT Medical Examiners

FMCSA has issued an extended Emergency Declaration covering multiple regulations, including a deferral for medical certification examinations for drivers performing essential pandemic related services. The current emergency declaration is effective through September, 2020.

This is in response to the difficulty commercial drivers may be experiencing in finding certified examiners to perform the medical qualification exam as offices have temporarily closed or confined services to caring for ill patients.

Patients in general have also experienced a shift in accessibility of healthcare whether due to office closings, curtailed hours or social distancing factors including not wanting to be sitting in a waiting area with potentially Covid-19 infected patients.

Telehealth “Grows Up”

Telehealth has undergone somewhat of an “explosion” in popularity and indeed necessity during the pandemic to provide that accessibility.

Is there a provision in the FMCSA Emergency Declaration for performing the commercial driver medical certification exam via a telehealth visit?

“...is there any consideration you know of for DOT physicals being conducted virtually, if only during the pandemic?”

The short answer is no, the Emergency Declaration makes no provision for the use of telehealth in order to perform a commercial driver examination, but this is a question that comes up increasing among medical examiners.

A few years ago the issue of the telehealth exam was raised with Charles Horan, Director, Office of Carrier, Driver, and Vehicle Safety Standards, Federal Motor Carrier Safety Administration (FMCSA) and was written up in a popular Commercial Driver Examiner newsletter.

For this particular example, an examiner used his telemedicine

program with a nurse conducting the hands-on examination while the provider watched. The nurse is NOT a certified medical examiner, but the provider is on the National Registry of Certified Medical Examiners (NRCME).

The official policy from FMCSA is that “telemedicine is not prohibited by the statute or the rule.”

The examination must be conducted by a medical examiner who is on the NRCME at the other end of the monitor but the person with the driver is not required to be on the registry if consistent with state law. The individual at the end with the driver would be assisting the examiner who would be “telepresent” at the other end. The examiner would be the one responsible with their name on the medical certificate.

So the question really is, under what circumstances can the certified examiner be supremely confident that the level of detail required to render a qualification determination?

Let’s consider three telehealth scenarios: Virtual visit - only the driver is on the “business end” of the visit, nurse/MA assisted visit and provider assisted visit.

For the purpose of the commercial driver exam, let’s just go ahead and rule out #1 as not adequate to perform a full exam. For #2, the nurse/MA (non provider) assisted visit, certainly all the typical intake procedures the nurse/MA would perform would be done as usual - vitals, height, weight, visual acuity exam, even the whisper test.

With current diagnostics attached to telemedicine platforms it’s fairly straightforward to also be able to check eyes, ears, throat, listen to heart, lungs, visually assess range of motion, gait, etc.

Where it falls down is on more subtle exam elements. How does a nurse or medical assistant reliably check for an inguinal hernia, palpate an abdominal aneurysm, assess muscle rigidity and tone indicating neurological disease, palpate a “hot” joint or crepitus, and myriad other exam components required to comply with the 13 FMCSA commercial exam standards under 49CFR391.41?

Should the driver be involved in an accident due to a condition that could not be reliably detected in a telemedicine situation, I wonder if that would be considered an “incomplete examination” and potentially subject to litigation?

Now this may be somewhat mitigated by having a licensed examiner on the other end, as in our #3, just not NRCME certified, rather than a medical assistant, but that negates the issue of providing a convenient and lower cost service. And any attempt to have a completely “non-contact” visit would not be served by these options.

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