

Attention Certified Medical Examiners: Seizure information

FMCSA has received numerous inquiries regarding recent communications indicating a change in the Federal Motor Carrier Safety Regulations (FMCSRs) and the Federal Seizure Exemption Program regarding epilepsy/seizures. The purpose of this email is to clear up any confusion that may still exist among Medical Examiners (MEs).

There has been no change to the FMCSRs regarding epilepsy/seizure or the Federal Seizure Exemption Program.

The regulation that address epilepsy/seizure or any other condition likely to cause loss of consciousness is found at 49 CFR 391.41(b)(8) and states:

(b) A person is physically qualified to drive a commercial motor vehicle if that person—

- (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 commercial motor vehicle;

The FMCSRs, including the physical qualification standards in 49 CFR 391.41, are regulations promulgated by FMCSA under its statutory authority. These regulations are legally binding on the public subject to their provisions, and FMCSA has the authority to compel compliance with the FMCSRs. These regulations function to ensure uniform application of the law and provide details of how the law is to be followed.

In addition to the FMCSRs, FMCSA provides guidance such as Appendix A to Part 391—Medical Advisory Criteria (at the end of 49 CFR part 391), bulletins, interpretations of the regulations, guidelines, which are intended to provide recommendations and information to assist MEs in applying the FMCSRs. Unlike regulations, guidance does not have the force and effect of law and is not meant to bind the public in any way. Rather, such guidance is strictly advisory, not mandatory, and is intended only to provide clarity to the public regarding existing requirements under the law or FMCSA policies. The public (including ME's) is free to choose whether to utilize such guidance or recommendations as a basis for decision making.

When guidance or recommendations are used as a basis for making a physical qualification determination, FMCSA recommends consultation with the treating physician and the reason for its application and due-diligence that is conducted to support the determination (e.g., consultation with the treating clinician) must be documented on the Medical Examination Report (MER) Form, MCSA 5875.

In addition, there has been no change to the Medical Advisory Criteria regarding epilepsy/seizure. MEs are still free to choose whether to utilize this guidance as a basis for making a physical qualification determination.

Appendix A to Part 391—Medical Advisory Criteria

H. Epilepsy: §391.41(b)(8)

1. A person is physically qualified to drive a commercial motor vehicle if that person: 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.
2. Epilepsy is a chronic functional disease characterized by seizures or episodes that occur without warning, resulting in loss of voluntary control which may lead to loss of consciousness and/or seizures. Therefore, the following drivers cannot be qualified:
 - (i) A driver who has a medical history of epilepsy;
 - (ii) A driver who has a current clinical diagnosis of epilepsy; or
 - (ii) A driver who is taking antiseizure medication.
3. If an individual has had a sudden episode of a nonepileptic seizure or loss of consciousness of unknown cause which did not require antiseizure medication, the decision as to whether that person's condition will likely cause loss of consciousness or loss of ability to control a motor vehicle is made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6 month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and antiseizure medication is not required, then the driver may be qualified.
4. In those individual cases where a driver has a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.*, drug reaction, high temperature, acute infectious disease, dehydration or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition and has no existing residual complications, and not taking antiseizure medication.
5. Drivers with a history of epilepsy/seizures off antiseizure medication and seizure-free for 10 years may be qualified to drive a commercial motor vehicle in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a commercial motor vehicle in interstate commerce if seizure-free and off antiseizure medication for a 5-year period or more.