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**Date:** 5/19/2006 5:24:43 PM

**Subject:** South Carolina Responses to FMCSA Notice on Diabetes

**Attachments:** attach 0

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SC Comments are below

Responses prepared by James Barwick, CDL compliance manager

Please reply to all should you have any questions.  
Thank you!.

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**Question One Response:** The Physical Qualifications for drivers., Part 391.41 Item (3) should include language requiring the potential operator to be accountable for informing the medical examiner that he/she suffers from ITDM and that the Medical Examiner's Certificate contain a check off statement that acknowledges the existence of ITDM. Additionally, the Medical Examiner should not be permitted to sign off on an operator unless he/she has collected information from the operators regular medical board-eligible endocrinologist to verify proper disease management,etc..

**Question Two Response:** The Federal Motor Carrier Safety Administration should mandate a "registry" where only officially qualified "medical examiner's" as defined in the FMCSR's (doctors of medicine,doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic) would be able to certify the fitness of an operator seeking a "Medical Examiners Certificate". This would encompass the condition involving ITDM.

**Question Three Response:** South Carolina has adopted the FMCSR in their entirety therefore as our agency received "waiver/exemption" notices from FMCSA we honored the applicable status for each recipient and issued them an unrestricted commercial driver's license.

**Question Four Response:** FMCSA should only allow the CMV operator's attending physician responsible for treating the driver's ITDM to certify the driver meets the revised diabetes standards.

**Question Five Response:** Yes , in those cases involving ITDM the medical certificate to be issued by the medical examiner to the driver with ITDM should include a certification of fitness from the "treating physician" in addition to the medical examiner.

**Question Six Response:** The medical examiner in cases involving ITDM should have the same discretion concerning ITDM as in those cases involving hypertension.

- a) It will be the medical opinion of the treating physician for ITDM that would would make the determination for the ITDM condition for lesser validation periods for this situation.
- b) It may be another (different) treating physician for hypertension etc..

In question to the above (a) and (b) comments - Our question is who signs the medical certificate last so that a lesser validation period would apply?

**Question Seven Response:** The health change conditions are only going to be known to the operator and his/her treating physician ! It should be considered if the standards for Part 391.41 Item (3) are to be changed that it be the responsibility of the treating physician to report health change conditions that he / she feel might affect the driver's ability to operate a motor safely to the state in which they are licensed. If the physician feels the condition warrants additional evidence that the license holder is medically and / or mentally fit to retain driving privileges the state who issued the commercial driver's license can require additional information in order for the applicant to retain their commercial driver's license. If the operators condition has sufficiently declined he/she may not be found qualified and be able to retain a valid medical examiners certificate and or driving privileges to operate a commercial motor vehicle.

**Question Eight Response:** South Carolina does not prohibit the licensing of non-commercial driver's who suffer from ITDM unless the driver acknowledges upon application for a drivers license that it as a medical condition that makes them unsafe to operate a motor vehicle; or the department receives a notice from a treating physician that ITDM makes them an unsafe candidate for licensing; or we receive a "Request For Reexamination " from law enforcement that the driver was in an accident or involved in a road side stop that prompted further investigation into the mental and / or physical condition of the applicant. Each applicant is afforded the opportunity to submit new medical reports to be evaluated by the departments Medical Advisory Board.

South Carolina has made an inquiry to our states Office of Highway Safety to seek data on accidents involving operators who have had an accident associated with diabetes related conditions etc..

**Question Nine Response:** These questions being considered by FMCSA as information collection, for consideration in the reduction of qualification standards associated with ITDM applicants should consider the new emerging therapies for treatment of diabetes mellitus. The question of if "yes", how? This can only be answered by the medical community who can provided evidence of the successes of these new therapies for treating diabetes such as continuous subcutaneous injectable infusion therapy. Data showing consistant,continual,success of users of such devices will provide a medical examiner (which should be the applicants on attending board - certified or board-eligible endocrinologist) the necessary assurance that with compliant use of the device and all other physical qualifications meeting the requirements found in Part 391.41 of the FMCSR's, that the applicant seeking certification should be safe to assume the responsibilities and physical demands required to operated a commercial motor vehicle safely.

**Question Ten Response:** South Carolina is seeking information from the Department Of Public Safety's, Highway Safety Office referencing data on safety performance of driver's who may suffer from ITDM and will forward any findings as we receive any information.

**Question Eleven Response:** South Carolina is seeking information from the Department Of Public Safety's, Highway Safety Office referencing data on the number of driver's who may suffer from ITDM and will forward any findings as we receive any information.

**Question Twelve Response:** The best resources for answers to these questions would come from the motor carrier industry and or Truck Driver Training Institutes who study driver behavior, necessary skill requirements for minimum entry level operators, and/or areas of research where fatigue and fitness are studied to determine their impact on the driving skills associated with the operation of large commercial motor vehicles.

**Question Thirteen Response:** See response to question Twelve.

***AAMVA Legislative/Regulatory Alert***

To: Chief Motor Vehicle Administrators  
Chief Law Enforcement Officers

FR: Linda Lewis-Pickett, President & CEO

DATE: April 5, 2006

RE: FMCSA Notice on Diabetes

On March 17, the Federal Motor Carrier Safety Administration (FMCSA) issued an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register to begin re-evaluating the rule that prohibits drivers with insulin-treated diabetes mellitus from operating trucks and buses in interstate commerce. The agency is seeking comments on whether or not to change the standard and to what extent. Currently, drivers with insulin-treated diabetes mellitus may only operate commercial vehicles in interstate commerce if they obtain an exemption from FMCSA. Prior to granting an exemption, the agency must examine each applicant's medical circumstances and publish their names in the Federal Register for comments.

Member jurisdictions are asked to pay special attention to the series of questions posed under the heading "Request for Information and Comments." FMCSA is seeking responses to 13 questions. These questions could have a significant impact upon departments of motor vehicles. For example, item (7) asks questions about who should be responsible for, and who should receive, reports on changes in health condition of drivers with diabetes mellitus. The agency also needs help in evaluating whether the ANPRM meets several federal laws for developing rules. For instance, FMCSA is seeking comments from state and local officials on any federalism issues.

Please provide AAMVA with a copy of your comments by June 1, 2006. Comments may be sent by email to Lori Cohen at [lcohen@aamva.org](mailto:lcohen@aamva.org) or Pam Richardson Walker at [pwalker@aamva.org](mailto:pwalker@aamva.org); or by fax to 703-908-5793. Public comments on this ANPRM may be submitted to the rulemaking docket by visiting the U.S. Department of Transportation's Docket Management System Web site at <http://dms.dot.gov>. The docket number for the ANPRM is FMCSA 2005-23151 and the deadline for submitting comments is June 15, 2006.