



**ATA INFORMATION CONCERNING
FMCSA'S 2015 INSTRUCTIONS TO MEDICAL EXAMINERS
ON OBSTRUCTIVE SLEEP APNEA
MARCH 2015**



In January 2015, the Federal Motor Carrier Safety Administration (FMCSA) issued a [notice on the physical qualification requirements for drivers with respiratory disorders](#) and, specifically, obstructive sleep apnea (OSA). The notice was issued in reaction to letters from members of Congress asking FMCSA to clarify that there are no specific detailed *requirements* for examiners with respect to OSA, only *recommendations*. ATA had alerted Congress to the concern that organizations training examiners to serve on the National Registry of Certified Medical Examiners were erroneously implying that the use of certain screening criteria, testing tools, and treatment methods is required.

FMCSA's 2015 notice makes clear that severe OSA is a respiratory condition likely to interfere with safe driving. As such, FMCSA encourages examiners to refer any driver exhibiting common OSA risk factors to a specialist for further evaluation. The notice points out that the current regulations and advisory criteria for examiners *do not* include specific guidelines on OSA screening, diagnosis and treatment. Instead, examiners are to use their own "judgment and expertise" in determining if a driver exhibits OSA risk factors and if treatment is required. In doing so, examiners are "encouraged" to consider the following:

- Moderate to severe OSA is defined as having an apnea-hypopnea index (AHI) of 15 or greater (e.g., apnea and hypopnea episodes per hour during sleep);
- Risk factors and symptoms include: loud snoring, witnessed apnea episodes, sleepiness, high body mass index, large neck size, and single-vehicle crash involvement;
- Diagnosis may be done using either an in-lab test or an at-home test (provided it ensures chain of custody);
- Treatment may consist of Continuous Positive Airway Pressure therapy (CPAP), oral appliances and/or weight loss.

Confusion regarding requirements for OSA screening, testing, and treatment dates back to a February 2012 letter to FMCSA from the agency's Motor Carrier Safety Advisory Committee (MCSAC). In it, the MCSAC offered recommendations for screening, testing and treatment protocols FMCSA should consider in drafting a future guidance to examiners on OSA. The letter was a set of recommendations to FMCSA, not to examiners. Later that year, FMCSA mistakenly published a guidance on OSA to medical examiners, but rescinded it the same day characterizing its publication as a clerical error.

Responding to concerns over FMCSA's approach to OSA, in late 2013 Congress mandated that any action the agency takes on the issue be taken only through rulemaking. Doing so would ensure that FMCSA only proposes measures with benefits that exceed their costs. Further, it would oblige the agency to carefully consider all stakeholder input. ATA believes that the erroneous instruction provided to medical examiners - implying OSA screening, testing and treatment requirements - violated the intent of the new statute. FMCSA has not yet initiated a rulemaking on OSA and has no established timeline to do so.

For more information contact: P. Sean Garney at sgarney@trucking.org