

## **DRIVER'S LICENSE CERTIFICATE**

### **What role, if any, does a physician have in the issuance of a Washington State driver's license?**

The Washington State Department of Licensing may require a person suffering from any physical or mental disability or disease that may affect that person's ability to drive a motor vehicle to obtain a statement signed by a physician certifying the person's condition.<sup>1</sup>

The Department also may require a person applying for a license or instruction permit to have an eye examination by a competent vision authority (such as an ophthalmologist or optometrist) in instances where the applicant cannot demonstrate the visual acuity needed for a driver's license.<sup>2</sup>

A person who wishes to apply for a commercial driver's license must first be medically examined to ensure that he or she is healthy enough to do so.<sup>3</sup> New regulations require the Department of Licensing to keep either the original or a copy of the driver's medical certificate on file for 3 years, if the driver was required to provide documentation of physical qualification.<sup>4</sup>

### **May the physician's certifying statement be used in litigation?**

Generally, no. The statement is confidential<sup>5</sup> and may be used only in determining the issuance of a driver's license,<sup>6</sup> in determining eligibility for or continuance of disability benefits, and as evidence in any administrative proceeding or court action concerning such disability benefits, or in an appeal from an order canceling or withholding a person's driving privilege.<sup>7</sup>

The certifying statement may not be used as evidence in any civil litigation against the physician or others.<sup>8</sup>

### **Must a physician report a patient whose driving ability is impaired?**

No. Washington law does not specifically require a physician to report a patient whose driving ability is impaired. A physician should decline to certify that a patient can safely drive a vehicle, however, if the physician believes the patient cannot.

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<sup>1</sup> RCW 46.20.041(1)(b). See also RCW 46.20.305.

<sup>2</sup> WAC 308-104-010(1)(a).

<sup>3</sup> RCW 46.25.055; 49 [CFR § 391.45](#).

<sup>4</sup> C.F.R. § 383.73(o)(ii).

<sup>5</sup> See RCW 46.20.041(1)(b)(i).

<sup>6</sup> See RCW 46.20.041(2).

<sup>7</sup> RCW 46.20.041(1)(b)(ii).

<sup>8</sup> See RCW 46.20.041(1)(b)(ii); *Tumelson v. Todhunter*, 105 Wn.2d 596, 601-02 (1986).

## **Should a physician report a patient whose driving ability is impaired?**

If asked to complete a certificate concerning the patient's condition and its impact on the patient's driving ability, the physician should truthfully report whatever information is requested. Because there is no other Washington requirement or procedure for reporting a patient's impaired ability to drive and because an unsolicited report could breach patient confidentiality, a physician should not report a patient's impaired driving ability without the patient's written consent. Whenever a physician believes that a patient's condition impairs the patient's ability to drive, the physician should inform the patient that the patient should not drive, explain the reasons why the patient should not drive, and document the advice the physician gave in the patient's medical record.

## **Does a physician have any special responsibilities relating to the licensing of drivers of commercial vehicles?**

Yes. Drivers of some commercial vehicles must receive a physical exam as part of the state licensing process.<sup>9</sup> Effective May 21, 2014, commercial driver's license examinations may only be performed by health care providers who are certified and listed on the Federal Motor Carrier Safety Administration's National Registry.<sup>10</sup> Information about the National Registry and how a health care provider can apply to become a certified medical examiner for commercial driver's licenses may be found at the FMCSA webpage for medical examiners: [http://nrcme.fmcsa.dot.gov/medical\\_examiners.aspx](http://nrcme.fmcsa.dot.gov/medical_examiners.aspx).

As part of that required physical exam, the examining physician must complete an examination form called the Medical Examination Report for Commercial Driver Fitness Determination.<sup>11</sup> Copies of the form are found at: <http://www.fmcsa.dot.gov/documents/safetyprograms/medical-report.pdf>.<sup>12</sup> The physician must retain both the original Medical Examination Report and a copy at the physician's office for at least three years.<sup>13</sup>

If the physician finds the person examined physically qualified to drive a commercial vehicle, the physician must complete a certificate in the specific form available at: <http://www.fmcsa.dot.gov/documents/safetyprograms/Medical-Examiners-Certificate.pdf>.<sup>14</sup> The physician must give the original certificate to the person examined and must give a copy to a prospective or current employing motor carrier who requests it.<sup>15</sup>

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<sup>9</sup> See 49 C.F.R. § 391.45. But WAC 446-65-010(1)(r), which adopts the federal regulations of Part 391 of Title 49 C.F.R., does carve out the following exception with respect to qualifying commercial drivers at the state level: "49 C.F.R. 391 subpart D (Tests), and E (Physical Qualifications and Examinations) do not apply to motor carriers operating vehicles with gross vehicle weight rating between 10,001 lbs. and 26,000 lbs. operating intrastate, and not used to transport hazardous materials in a quantity requiring placarding." Sections 391.41 to .49 of Title 49 C.F.R. fall under this subpart E.

<sup>10</sup> 49 C.F.R. 391.42.

<sup>11</sup> See 49 C.F.R. § 391.43(f).

<sup>12</sup> This updated form will be codified at 49 C.F.R. § 391.43(f).

<sup>13</sup> 49 C.F.R. § 391.43(i).

<sup>14</sup> This updated form will be codified at 49 C.F.R. § 391.43(h).

<sup>15</sup> 49 C.F.R. § 391.43(g)(2).

If the examining physician finds a physical condition that is likely to interfere with the driver's ability to operate or control a motor vehicle safely, the physician should not complete a certification. Instead, the physician should give a copy of the driver's medical examination to the driver, who must in turn forward it immediately to the Washington State Department of Licensing, Responsibility Division, Medical Section, P.O. Box 9030, Olympia, WA 98507-9030. The Department will then determine whether to issue a clearance notification to the driver. Receipt of a clearance notification is sufficient cause for a physician to issue a certification.<sup>16</sup>

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<sup>16</sup> See WAC 446-65-020(1)–(2).