



DEPARTMENT OF TRANSPORTATION

RURAL TRANSIT ASSISTANCE PROGRAM

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CDL Requirement Changes for 2020

Beginning February 7, 2020, driver applicants wishing to obtain their CDL or upgrade their endorsements will be required to complete a set of new training standards as required in 49 CFR part 380. This training must be completed through a provider that is listed on the Training Provider Registry (TPR) that is expected to be rolled out in November 2019.

Once this new rule takes effect, training providers must provide instruction on all elements of the applicable theory curriculum, and driver trainees



Photo by Christopher Paul High on Unsplash

must receive an overall score of at least 80% on the theory assessment. The assessment may be written or electronic. The training provider cannot issue a certificate or transmit the drivers' information to the FMCSA unless the drivers have completed the theory and behind-the-wheel training and can perform all skills proficiently. Once the FMCSA has received all required information, it will electronically transmit the information to the State Driver's License Agency—in Minnesota, the Driver and Vehicle Services. Only then can the driver complete the state-administered CDL Skills test.

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Save the dates!

May 6-8, 2020: [OTAT](#)

[Spring Workshop](#)

for 5307/5311/Tribal Transit
Providers in St. Cloud

May 13, 15, or 19, 2020:

[OTAT Spring Workshops for
Section 5310](#)

After February 7, 2020, State Licensing Agencies will be required to verify that the entry level driver training (ELDT) has been completed before allowing an applicant to take a skills test for a Class A, Class B commercial license or (P) passenger, and (S) school bus endorsements. The new rule enhances the safety of commercial drivers and their operations on our nation's roadways.

There is currently a proposal for a two-year delay for compliance with this new ruling to allow more time for development of the secured electronic transfer of information between agencies. Even if the delay is accepted, the requirement will be in place for all new applicants who wish to obtain their CDL with any endorsements.

For more detailed information please visit:
www.fmcsa.dot.gov/eltd

CBD Oil Use in the Transit Industry

What is it? Cannabidiol (CBD) is a compound from the marijuana plant containing the chemical known as "CBD." It comes in many forms, such as CBD Oil (most popular), beauty and health products, vapors, and CBD-

infused edibles. Like THC, the well-known psychoactive element of marijuana that produces the typical "high," CBD is one of more than 400 other chemicals which can also be found in cannabis. However, unlike THC, CBD is often touted as a "non-intoxicating/psychoactive" or "less-intoxicating/psychoactive" marijuana extract and is claimed to help treat a variety of medical conditions. Despite often being referred to as the "non-intoxicating" marijuana extract, side effects from CBD may include fatigue/drowsiness, dizziness, sedation, lethargy, diarrhea, rash, weakness, insomnia, and others.

Medical Uses? While CBD is being heavily studied for its potential role in treating a wide variety of health issues, including anxiety, inflammation, cancer, and more, the medical condition with the most significant and reliable evidence showing it can be helped by the use of CBD is epilepsy. In fact, in 2018, an FDA advisory panel unanimously recommended approval of a CBD medication to treat two rare forms of childhood epilepsy. Beyond its use for epilepsy, much of the scientific community asserts there is still much to be learned to either prove or disprove the efficacy and safety of CBD for use in other health conditions. While there is promising preliminary data, overall there is still too little evidence to start making firm conclusions on other medical conditions.

Workplace Risks. Employees subject to USDOT drug testing are tested for THC. Many people are wondering, "If I use a CBD product, will I test positive for THC?" The answer is... maybe. The USDOT drug test looks for the THC metabolite in urine, not CBD. If someone used 100% pure CBD, it would not be found on a USDOT drug test. However, nearly all CBD products on the market today contain some level of THC. In some medical marijuana states, CBD products can



Photo by Enecta Cannabis extracts on Unsplash

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have up to 5% of THC, while other states limit the level of THC to 0.3% in any CBD product. Depending on usage patterns and concentration of THC within the CBD product, it is possible to test positive.

Bottom line for all safety-sensitive employees and employers: if THC is found on a USDOT drug test, the use of CBD or other “medical marijuana” product will not be accepted as a medical explanation by the Medical Review Officer (MRO). A USDOT drug test, which is positive for THC will remain positive regardless of any state medical marijuana laws.



Photo by Enecta Cannabis extracts on Unsplash

Increase of the USDOT Random Drug Testing Rate

What Happened? Effective January 1, 2019, the Federal Transit Administration (FTA) has announced that the minimum annual rate of random drug testing will increase from 25% to 50%. This applies to all entities receiving FTA Section 5307, 5309, 5311, or 5339 funding, including recipients, subrecipients, and applicable safety-sensitive contractors. The minimum random testing rate for alcohol remains unchanged and stays at 10% for CY2019.

Background. The old minimum random drug testing rate of 25% had been in effect from 2007 through 2018. However, due to the reported positive drug test violation rate being greater than 1.0% in CY2017, FTA is required by federal statute to increase the minimum annual rate of random drug testing to 50 percent.

Workplace Impact. As an employer, you must ensure that whoever is charged with the responsibility of selecting your safety-sensitive employees for random drug and alcohol testing is aware of this change and that they are fully prepared to implement the changes starting January 1, 2019.

If you manage a drug & alcohol testing program with both FTA covered employees as well as FMCSA covered employees, please be aware that the FMCSA minimum random drug testing rate will remain at 25% in CY2019. If you have two separate random testing pools for FTA employees and FMCSA employees, then your FMCSA random testing pool can remain at 25% for random drug testing. However, if you have one random testing pool where you mix employees covered by FTA along with employees covered by FMCSA, then you must test the entire pool at the higher rate of 50% for random drug testing.

Policies. Additionally, employers must check their drug & alcohol testing policies. If your D&A policy references the old random drug testing rate of 25%, you must

update your D&A policy. However, if the language in your D&A policy is more generalized, such as “ACME Transit will conduct random drug and alcohol testing at the minimum testing rates established by FTA,” then your D&A policy will not need to be modified.

Reference. At the link provided below, you can find this update in the Federal Register Vol. 83, No. 238, issued on December 12, 2018; as well as the “dear colleague” letter from the Acting FTA Administrator.

Federal Register: www.gpo.gov/fdsys/pkg/FR-2018-12-12/pdf/2018-26950.pdf

FTA “Dear Colleague”: www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/ccam/policies-programs/118686/fta-dear-colleague-letter-2019-random-drug-testing-rate-increase-final-10-17-18.pdf

“Significant Safety Risk”

What is it? When a prescription drug/metabolite is detected during a USDOT drug test, the Medical Review Officer (MRO) is required to verify that the tested individual has a legitimate medical explanation for the presence of that drug/metabolite. MROs will conduct a verification process in an effort to determine if the drug was legitimately prescribed. During this verification process, the MRO will attempt to contact the tested individual for an interview and to verify whether or not the individual has a legally valid prescription (consistent with the Controlled Substances Act (CSA)).

If after interviewing the tested individual, the MRO determines that there is not a legitimate medical



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explanation for the presence of the drug/metabolite, the MRO will report the test result as positive to the employer. On the other hand, if the MRO determines that there is a legitimate medical explanation, the test will be reported as negative to the employer. However, even in cases when the MRO verifies a legally valid prescription and reports a test as negative to the employer, the MRO still has a serious safety duty, and responsibility under 49 CFR Part 40, to address potential safety concerns.

If the MRO has a safety concern and determines that, despite a legally valid prescription and verified negative test result, the employee is either (1) likely to be rendered medically unqualified under an applicable USDOT agency regulation, and/or (2) is likely to pose a “significant safety risk” if they continue to perform safety-sensitive functions, the MRO is required to provide the employee with up to five business days to have the prescribing physician contact the MRO, before the MRO reports this safety concern to the employer. This five-day period allows the prescribing physician to contact the MRO to determine if any actions can be taken (e.g., change of medication, modify treatment plan, etc.) that will alleviate the MRO’s safety concern. If the MRO does not receive such information from the prescribing physician within five business days, the

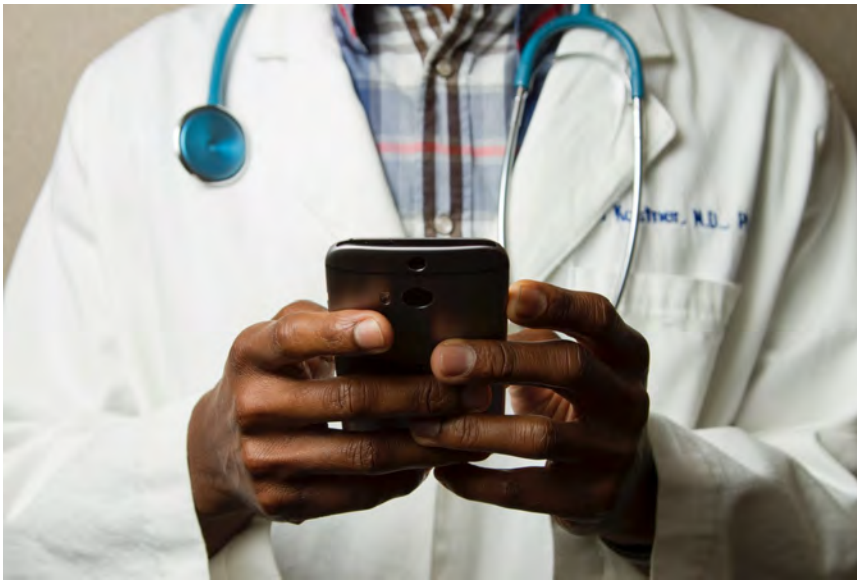


Photo by National Cancer Institute on Unsplash

collective bargaining, human resource, liability, and other workplace concerns. In establishing a program to address these fitness-for-duty concerns, some areas to cover would include:

- Policy
- Consequences
- Procedures
- Employee Education
- Documentation, method of employee reporting, confidentiality.

Other best practices include assisting your employee workforce in being proactive:

MRO is required to then report the safety concern to the employer.

It is very important to remember that if an employee is identified as a “significant safety risk,” this is *not* in any way equivalent to a positive test result. Employers must not treat a “significant safety risk” determination the same as a positive test result. Remember, an employee who is a “significant safety risk” had a *verified negative* test result, with an added concern by the MRO about their safety impact.

Workplace Impact. An important factor for employers and employees to understand is that neither USDOT nor FTA has issued any formal or informal direction on how employers are supposed to handle a circumstance when an employee is deemed to be a “significant safety risk.” Once an employer is notified of such by the MRO, all action taken thereafter would be under the sole authority of the transit agency. Upon notification, employers must follow procedure for CDL standard violation, if appropriate.

Best Practices. Beyond addressing potential CDL standard violations, the actions an employer takes following notification of a “significant safety risk” are under the sole authority of the employer. These actions should be carefully crafted and articulated within a written agency policy, being sure to address all legal,

- Educate employees on safety risks of prescription medications
- Provide a summary of regulatory changes https://www.transportation.gov/odapc/Part_40_DOT_Employee_Notice_2017
- Review with employees the new/revised employer policy (after you complete that action)
- Define process and provide guidance on how to notify the prescribing physician to contact the MRO
- Inform applicants of possible requirement to facilitate contact between their prescribing physician and the MRO, so they can proactively gather up to date and correct contact information.
- Encourage employees to:
 - ◆ Obtain updated prescriptions:
 - ◇ If current Rx is more than 1 year old
 - ◇ Rx states “take as needed” for an injury that is no longer being treated
 - ◇ Employee does not have ongoing relationship with prescribing physician (E.R., urgent care, etc.)
 - ◆ Revisit treatment options with their prescribing physician for chronic or reoccurring conditions to minimize safety impacts
 - ◆ Discuss timing, dosing, and alternative medications with their physician

Kudos to Wadena Transit!



To the Friendly Rider driver who helped my young daughter on Dec. 16, a huge thank you!

She is very grateful also. Thank you for showing kindness and being an example to us -- and the community.

Lori and Andrea Kirckof

Wadena



From Randy Jahnke: Our driver was sitting in a parking lot across town waiting for his next pick up. He said a girl in the 10th grade came up to him and asked if she could warm up in the bus. (It was one of the cold nights with wind chill). He said sure and where she was going. She said to the school for a band/choir concert. Her parents were not home from work. He said no problem and brought her there. She said she only had a dollar and he said not to worry about it and paid for her way. He did not tell anyone at the office, because he said that is what should be done and was the right thing to do.

2020 Leadership Training Program

The 2020 Leadership Training Program (LTP) was kicked off in January 2020 for three levels. The levels of engagement included a Supervisor Level, Manager Level, and an Executive Level. Participants in the training came from over twenty-five different Greater Minnesota Transit agencies, including representation from FTA Sections 5307, 5310, 5311, and Tribal Transit.

There are five more two-day sessions for each level scheduled in 2020. In mid-2020 we will assess if this course is meeting the needs of our agencies and when it will be offered again.

If you are interested in this training in the future, please notify deb.brisk@mnrtap.net.

Passenger Assistance Safety and Sensitivity (PASS) Training

FTA's Section 5310, Enhanced Mobility of Seniors and people with Disabilities Minnesota providers are required to have an 8-hour Passenger Assistance Safety and Sensitivity (PASS) Training along with 4-hour training for defensive driving and Maltreatment awareness. Melissa Hansen, our RTAP trainer provided training to the Mayo Clinic in Lake City these courses on December 19 and 20, 2019. Section 5310 providers,



if you need someone to support you for this training contact deb.brisk@mnrtap.net. We are here to help with your training needs.

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If you are not receiving this newsletter directly, or know of someone who is not currently receiving it and would like to, please contact Julie Schafer at jschafer@rlsandassoc.com. This publication is free.

Visit the **Minnesota Rural Transit Assistance Program** website
for a catalog and a listing of upcoming 2020 events:

mnrtap.us/calendar-of-events/

This newsletter is published under contract with the Minnesota Department of Transportation from a grant received from the Federal Transit Administration under 49 U.S.C. Section 5311-Formula grants for other than urbanized areas (CFDA 20.509).

The newsletter is published by:

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