

**Comments of Robert Elliott Vincent
Litigation Counsel
Kansas Corporation Commission
Before the
Joint Committee on Administrative Rules and Regulations
March 13, 2015**

Chair and members of the Committee, I am Robert Vincent, Litigation Counsel for the Kansas Corporation Commission. Today, I will provide comment on two amended regulations regarding general motor carrier safety and qualification of driver regulations. Before I begin describing those proposed amendments in detail, I would like to provide you a little background on why these amendments are being proposed. After I have covered this background information, I will explain the two concepts our proposed amendments seek to cover.

I. Background Information

The enforcement and regulatory oversight of motor carriers operating in Kansas is handled by numerous state agencies (e.g. KCC, KHP, KDOR). Our agencies have developed an excellent working relationship to help create an environment that fosters collaboration and cooperation. Together, our team of investigators, state troopers, and administrative personnel help ensure that motor carriers in Kansas can thrive.

Funding for our motor carrier programs is based in large part on grants from the federal government. The Federal Motor Carrier Safety Administration (FMCSA) has made available grants to states that adopt and enforce motor carrier regulations that are compatible with the regulations promulgated by the FMCSA. In Kansas, the KCC is the state agency charged with implementing rules and regulations relevant to motor carrier operations.

In order to ensure that Kansas' motor carrier regulations are compatible with the FMCSA's regulations, the KCC and other agencies undertake a review to true-up our regulations with the FMCSA's every few years. The two regulations before you today are being amended as part of that true-up process.

II. Proposed Amendments

a. True-Up to Ensure Compatibility

Kansas adopts motor carrier regulations by reference. The results of this are regulations that mirror the FMCSA's regulations nearly verbatim. The overwhelming majority of the proposed amendments are to ensure that cross-references between the documents remain consistent and coherent. For example, if a FMCSA regulation moves a paragraph to a different section, the Kansas regulation (1) will not make sense and (2) will not be compatible until we amend our regulation to reflect this change. These types of amendments do not create any new

**Jt Cmte on Adm Rules and
Regulations**

Attachment 2

Date 3-13-2015

requirements for our motor carriers, but simply ensure that our version of motor carrier regulations properly adopt the FMCSA regulations.

b. New Rules Related to Medical Examiners

From time to time, the FMCSA creates a new rule that a state must adopt in order to continue to receive FMCSA grants. One of these rules is being incorporated through the proposed regulations before you today. Certain motor carriers are required to have their drivers receive what is commonly referred to as a "DOT Physical." The FMCSA is now requiring that medical examiners who perform such examinations be certified and listed on a national registry. The result of this is that a motor carrier driver's examination must be performed by a medical examiner listed on the National Registry of Certified Medical Examiners.

Kansas has two options for complying with this new rule:

1. Require intrastate medical examiners be certified and register on the FMCSA's National Registry of Certified Medical Examiners; or
2. Develop and implement its own separate medical examiner registry.

Our proposed regulation attempts to follow the least invasive and most inexpensive route. Therefore, we propose that medical examiners who perform medical examinations for *intrastate* motor carrier drivers be listed on the FMCSA's National Registry of Certified Medical Examiners.

The rationale behind this decision is straightforward. First, it embraces the current medical examiner environment. Nearly 700 medical examiners in Kansas have *already become certified and listed* on the FMCSA's National Registry of Certified Medical Examiners. Second, it avoids duplication of programs and confusion. Motor carriers and their drivers should not have to visit separate databases or separate medical examiners to be sure they are fit to drive in both intrastate and interstate commerce. Third, it avoids unnecessary expense and waste. The State of Kansas will not have to develop a separate database, train staff or teach motor carriers. By relying on the FMCSA's pre-existing registry, Kansas provides a one-stop-shop resource to either find a medical examiner, or become certified and listed as a medical examiner.

None of the proposed rules today place limits on who may become a certified medical examiner. An advanced practice nurse, doctor of chiropractic, doctor of medicine, doctor of osteopathy, physician assistant, or other medical professional authorized by Kansas law to perform physical examinations may continue to do so.

III. Conclusion

The proposed regulations before you are designed to accomplish two tasks. First, the amendments ensure that Kansas' adoption of motor carrier rules meets the requirements necessary to continue to receive federal grants. Second, the amendments incorporate the least invasive and disruptive means with which Kansas can adopt and comply with federally mandated medical examiner rules. I would like to take the time to thank the Committee for its consideration, and would be happy to answer any questions you may have.