



Senior Services is now Sound Generations

April 27, 2017

Gregory J. Kopta, Administrative Law Judge
Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

RECEIVED
RECORDS MANAGEMENT
2017 MAY -1 AM 8:09
STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

Dear Mr. Kopta

We are submitting an application for mitigation regarding penalty assessment TN-170226 in the amount of \$11,300. In reviewing the basis for the penalty, we would like to provide some additional information for your consideration.

Three Violations (112 Occurrences)-using a Driver not Medically Examined and Certified

The majority of the violations (104 out of 112) were due to our receiving a CDL card from US Health Works that was not the latest version for Manuel Fernandez. It was on this basis that the auditor claimed the card was invalid. The issue had nothing to do with this driver transporting passengers with an expired CDL card. Mr. Hernandez's CDL card showed that he was eligible to drive through 9/2/17 (please see attached). This was our first compliance review, so we were unaware that the card was not valid without the National Registry Number. We assumed that US Health Works would have been using the latest version of the card. We understand now that having the national registry number on the card allows us to check to make sure the provider is legitimate. We did subsequently check the provider and determined he was legitimate.

The remaining violations (8 out of 112) were for CDL cards that were a couple days expired for each driver. Our systems detected this and immediately took steps to correct. Neither of these drivers had previously failed their physicals and they passed their physicals once we got them scheduled. We believed the risk to the public was minimal and that more harm would have been done by cancelling these routes because we had no driver. This would have resulted in older adults and people with disabilities not getting to their medical appointments, the grocery store, food bank or attend meal programs at senior centers. Normally we have back up drivers we can call on, but most of last year and up until the present we have had 4 vacancies for drivers. This is occurring because it is difficult to recruit drivers willing to work for non profit wages. All of this factored into our not being in compliance with regards to these two drivers.

Eight Violations –Using a Commercial Vehicle not Periodically Inspected

2208 Second Ave, Ste 100
Seattle WA 98121-2055

OFFICE 206.448.3110

WA RELAY 7-1-1

FAX 206.448.5766

WEB soundgenerations.org



Senior Services is now Sound Generations

We have a partnership with Metro, which contracts with Solid Ground and TransDev to perform maintenance on our vehicles. Our job is to make sure the vehicles follow the required maintenance schedule. The issue isn't that our vehicles weren't being inspected per the schedule, the issue was that they weren't documenting on the required DOT form. The contractors and Metro have been informed and will be in compliance going forward.

Our track record which is documented in UTC records shows that our program has operated safely since 1997 with very few reportable accidents. This is our first UTC audit and most of the issues identified were new to our Transportation Director, who has over 30 years of experience in special needs transportation. It would be one thing if these issues had shown up on a previous audit and were not addressed. If that was the case, we would accept full responsibility for not being in compliance. Our Safety Management Plan documents that we are now fully aware of the requirements and are taking or have taken steps to be in compliance.

Lastly, I would like to point out that the budget for our transportation program is \$2,637,306. The notice of penalties incurred seems to imply that the entire \$14 million is available to our transportation program, which it is not. We are a multi service organization with senior centers, home repair, caregiver, wellness, food and information programs. Transportation is one component of what we offer the community.

We are respectfully requesting that the entire fine be waived. If you have additional questions, please feel free to contact me at joanned@soundgenerations.org or 206 727-6206.

Sincerely,

A handwritten signature in blue ink that reads "Joanne Donohue".

Joanne Donohue, VP

2208 Second Ave, Ste 100
Seattle WA 98121-2055

OFFICE 206.448.3110

WA RELAY 7-1-1

FAX 206.448.5766

WEB soundgenerations.org

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TN-170226

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed. I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

- 1. **Payment of penalty.** I admit that the violation occurred and enclose \$ _____ in payment of the penalty.
- 2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:

- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision
- OR b) I ask for a Commission decision based solely on the information I provide above.

- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below:

- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision
- OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 4/27/17 [month/day/year], at Seattle, WA [city, state]

Southern Generations
Name of Respondent (company) – please print

[Signature]
Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”

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STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION
COMMISSION

warranted if patient is persistently hypertensive on maximal or near-maximal doses of 2-3 pharmacologic agents. Some causes of secondary hypertension may be amenable to surgical intervention or specific pharmacologic disease. (See Cardiovascular Advisory Panel Guidelines for the Medical Examination of Commercial Motor Vehicle Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Rheumatic, Arthritic, Orthopedic, Muscular, Neuromuscular or Vascular Disease

§391.41(b)(7) A person is physically qualified to drive a commercial motor vehicle if that person:

Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease which interferes with ability to control and operate a commercial motor vehicle safely.

Certain diseases are known to have acute episodes of transient muscle weakness, poor muscular coordination (ataxia), abnormal sensations (paresthesia), decreased muscular tone (hypotonia), visual disturbances and pain which may be suddenly incapacitating. With each recurring episode, these symptoms may become more pronounced and remain for longer periods of time. Other diseases have more insidious onsets and display symptoms of muscle wasting (atrophy), swelling and paresthesia which may not suddenly incapacitate a person but may restrict his/her movements and eventually interfere with the ability to safely operate a motor vehicle. In many instances these diseases are degenerative in nature or may result in deterioration of the involved area.

Once the individual has been diagnosed as having a rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease, then he/she has an established history of that disease. The physician, when examining an individual, should consider the following: (1) the nature and severity of the individual's condition (such as sensory loss or loss of strength); (2) the degree of limitation present (such as range of motion); (3) the likelihood of progressive limitation (not always present initially but may manifest itself over time); and (4) the likelihood of sudden incapacitation. If severe functional impairment exists, the driver does not qualify. In cases where more frequent monitoring is required, a certificate for a shorter period of time may be issued.

(See Conference on Neurological Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Epilepsy

§391.41(b)(8) A person is physically qualified to drive a commercial motor vehicle if that person:

Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

Epilepsy is a chronic functional disease characterized by seizures or episodes that occur without warning, resulting in loss of voluntary control which may lead to loss of consciousness and/or seizures. Therefore, the following drivers cannot be qualified: (1) a driver who has a medical history of epilepsy; (2) a driver who has a current clinical diagnosis of epilepsy; or (3) a driver who is taking antiseizure medication.

If an individual has had a sudden episode of a nonepileptic seizure or loss of consciousness of unknown cause which did not require antiseizure medication, the decision as to whether that person's condition will likely cause loss of consciousness or loss of ability to control a motor vehicle is made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a six month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and antiseizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition and has no existing residual complications, and not taking antiseizure medication.

Drivers with a history of epilepsy/seizures off antiseizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off antiseizure medication for a 5-year period or more.

(See Conference on Neurological Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Mental Disorders

§391.41(b)(9) A person is physically qualified to drive a commercial motor vehicle if that person:

Has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with ability to drive a motor vehicle safely.

Emotional or adjustment problems contribute directly to an individual's level of memory, reasoning, attention and judgment. These problems often underlie physical disorders. A variety of functional disorders can cause

drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving. Physical fatigue, headache, impaired coordination, recurring physical ailments and chronic "ragging" pain may be present to such a degree that certification for commercial driving is inadvisable. Somatic and psychosomatic complaints should be thoroughly examined when determining an individual's overall fitness to drive. Disorders of a periodically incapacitating nature, even in the early stages of development, may warrant disqualification.

Many bus and truck drivers have documented that "nervous trouble" related to neurotic, personality, or emotional or adjustment problems is responsible for a significant fraction of their preventable accidents. The degree to which an individual is able to appreciate, evaluate and adequately respond to environmental strain and emotional stress is critical when assessing an individual's mental alertness and flexibility to cope with the stresses of commercial motor vehicle driving.

When examining the driver, it should be kept in mind that individuals who live under chronic emotional upsets may have deeply ingrained maladaptive or erratic behavior patterns. Excessively antagonistic, instinctive, impulsive, openly aggressive, paranoid or severely depressed behavior greatly interfere with the driver's ability to drive safely. Those individuals who are highly susceptible to frequent states of emotional instability (schizophrenia, affective psychoses, paranoia, anxiety or depressive neuroses) may warrant disqualification. Careful consideration should be given to the side effects and interactions of medications in the overall qualification determination. See Psychiatric Conference Report for specific recommendations on the use of medications and potential hazards for driving.

(See Conference on Psychiatric Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Vision

§391.41(b)(10) A person is physically qualified to drive a commercial motor vehicle if that person:

Has distant visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

The term "ability to recognize the colors of" is interpreted to mean if a person can recognize and distinguish among traffic control signals and devices showing standard red, green and amber, he or she meets the minimum standard, even though he or she may have some type of color perception deficiency. If certain color perception tests are administered, (such as Ishihara, Pseudoisochromatic, Yarn) and doubtful findings are discovered, a controlled test using signal red, green and amber may be employed to determine the driver's ability to recognize these colors.

▼ Complete ONLY if driver is qualified ▼

Medical Examiner's Certificate

I certify that I have examined MANUEL A. FERNANDEZ in accordance with Federal Motor Carrier Safety Regulations (49 CFR 391.41 - 391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- wearing corrective lenses
- wearing hearing aid
- accompanied by a _____ waiver/exemption
- driving within an exempt intracity zone (49 CFR 391.62)
- accompanied by a Skill Performance Evaluation Certificate (SPE)
- qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

MARK WARNICKY, PA-C MD DO DC PA
ICDL Advanced Practice Nurse

PRINT NAME OF MEDICAL EXAMINER
PIA 10005043 / w/lt (206) 24-3651

LICENSE/CERTIFICATE NUMBER & ISSUING STATE (AREA CODE) TELEPHONE NUMBER

X MANUEL A. FERNANDEZ 09/02/2017

SIGNATURE OF MEDICAL EXAMINER DATE

02-11-2014

DRIVER LICENSE NUMBER

ADDRESS OF DRIVER

MEDICAL CERTIFICATE EXPIRATION DATE 09/02/2017

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Lorri Engbaum
 in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49)
 and with knowledge of the driving duties, I find this person is qualified, and, if applicable,
 only when:

- | | |
|--|---|
| <input checked="" type="checkbox"/> wearing corrective lenses | <input type="checkbox"/> driving within an exempt intracity (49 CFR 391.62) |
| <input type="checkbox"/> wearing hearing aid | <input type="checkbox"/> accompanied by a Self Performance Evaluation Certificate (SPE) |
| <input type="checkbox"/> accompanied by a _____ waiver/exemption | <input type="checkbox"/> qualified by operation of 49 CFR 391.64 |

The information I have provided regarding this physical examination is true and complete.
 A complete examination form with any attachment embodies my findings completely and
 correctly and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER <u>Corina Nistor</u>	TELEPHONE <u>425 882 0100</u>	DATE <u>8-25-15</u>
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MEDICAL EXAMINER'S NAME (PRINT) <u>CORINA NISTOR</u>	<input checked="" type="checkbox"/> MD <input checked="" type="checkbox"/> DO <input type="checkbox"/> Physician Assistant	<input type="checkbox"/> Chiropractor <input type="checkbox"/> Advanced Practice Nurse <input type="checkbox"/> Other Practitioner
---	--	--


MEDICAL EXAMINER'S LICENSE OR CERT. NO. ISSUING STATE <u>M000045756 WA</u>	NATIONAL REGISTRY <u>869493986</u>
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SIGNATURE OF DRIVER <u>Lorri Engbaum</u>	INTRASTATE ONLY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	CDL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DRIVER'S LICENSE NO. [REDACTED]	STATE <u>WA</u>
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ADDRESS OF DRIVER
[REDACTED]

MEDICAL CERTIFICATION EXPIRATION DATE
5-28-16

Public Burden Statement:
 A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2124-0006. Public reporting for this collection of information is estimated to average approximately 1 minute per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-RRR, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.

 U.S. Department of Transportation
 Federal Motor Carrier
 Safety Administration

Medical Examiner's Certificate
 (for Commercial Driver Medical Certification)

I certify that I have examined Last Name: Engbaum First Name: Lorri in accordance with (please check only one)

- the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when (check all that apply) DR
- the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations), and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when (check all that apply)

- Wearing corrective lenses
- Wearing hearing aid
- Accompanied by a _____ waiver/exemption
- Accompanied by a Skill Performance Evaluation (SPE) Certificate
- Driving within an exempt intracity zone (49 CFR 391.62) (Federal)
- Qualified by operation of 49 CFR 391.64 (Federal)
- Grandfathered from State requirements (State)

Medical Examiner's Certificate Expiration Date

6-7-17

The information I have provided regarding this physical examination is true and complete. A complete Medical Examination Report Form, MCSA-5875, with any attachments embodies my findings completely and correctly, and is on file in my office.

Medical Examiner's Signature

Corina Nistor

Medical Examiner's Name (please print or type)

CORINA NISTOR

Medical Examiner's State License, Certificate, or Registration Number

MD00045756

Medical Examiner's Telephone Number

4258820100

Date Certificate Signed

6-7-16

- MD Physician Assistant Advanced Practice Nurse
- DO Chiropractor Other Practitioner (specify) _____

Issuing State

WA

National Registry Number

8694939860

Driver's Signature

Lorri Engbaum

Driver's License Number

[REDACTED]

Issuing State/Province

WA

Driver's Address

Street Address: [REDACTED]

City: [REDACTED]

State/Province: WA

Zip Code: 98014

CLP/CDL Applicant/Holder

Yes No

MEDICAL EXAMINER'S CERTIFICATE			
PA 10004048			
I certify that I have examined <u>Nicholas ADAMS</u> in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties. I find this person is qualified, and, if applicable, only when:			
<input type="checkbox"/> wearing corrective lenses	<input type="checkbox"/> driving with an exempt (totally) case (49 CFR 391.63)	<input type="checkbox"/> accompanied by a Skill Performance Evaluation Certificate (SPE)	
<input type="checkbox"/> wearing hearing aid	<input type="checkbox"/> waived/exemption	<input type="checkbox"/> qualified by operation of 49 CFR 391.64	
The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.			
SIGNATURE OF MEDICAL EXAMINER	TELEPHONE	DATE	
<i>[Signature]</i>	(203) 475-1908	4-21-14	
MEDICAL EXAMINER'S NAME (PRINT)	<input type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Physician Assistant	<input type="checkbox"/> Chiropractor <input type="checkbox"/> Advanced Practice Nurse <input type="checkbox"/> Other Practitioner	
<u>DeLisha Johnson</u>			
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO./ISSUING STATE	NATIONAL REGISTRY NO.		
PA10004048/WA	273421789		
SIGNATURE OF DRIVER	INTRASTATE ONLY	CDL	DRIVER'S LICENSE NO. STATE
<i>[Signature]</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	[REDACTED] WA
ADDRESS OF DRIVER			
[REDACTED]			
MEDICAL CERTIFICATION EXPIRATION DATE			
4-21-2016			

Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0006. Public reporting for this collection of information is estimated to average approximately 1 minute per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Office, Federal Motor Carrier Safety Administration, MC-RRA, 1200 New Jersey Avenue, SE, Washington, DC 20590.



U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

Medical Examiner's Certificate
(for Commercial Driver Medical Certification)

I certify that I have examined Last Name: Adams First Name: Nicholas in accordance with (please check only one):

the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when (check all that apply) OR
 the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations), and, with knowledge of the driving duties. I find this person is qualified, and, if applicable, only when (check all that apply):

- Wearing corrective lenses
- Accompanied by a _____ waiver/exemption
- Driving within an exempt intracity zone (49 CFR 391.62) (Federal)
- Wearing hearing aid
- Accompanied by a Skill Performance Evaluation (SPE) Certificate
- Qualified by operation of 49 CFR 391.64 (Federal)
- Grandfathered from State requirements (State)

The information I have provided regarding this physical examination is true and complete.
A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

Medical Examiner's Certificate Expiration Date

9-28-2018

Signature of Medical Examiner

[Handwritten Signature]
G. BRANNON, PAC

Medical Examiner's Telephone Number

253 839 2127

Date Certificate Signed

9-28-18

Medical Examiner Name (Please Print or Type)

- MD
- Physician Assistant
- Advanced Practice Nurse
- DO
- Chiropractor
- Other Practitioner (Specify)

Medical Examiner's State License, Certificate, or Registration Number

PA10004131

Issuing State

WA

National Registry Number

9449426228

Signature of Driver

[Handwritten Signature]

Driver's License Number

[Redacted]

Issuing State/Province

WA

Address of Driver

[Redacted]

CLP/CDL Applicant/Holder

Street:

City:

State/Province: WA Zip Code: 99333 Yes No