

Transportation Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3145
Fax: 785-271-3124
<http://kcc.ks.gov/>

Mark Sievers, Chairman
Ward Loyd, Commissioner
Thomas E. Wright, Commissioner

Sam Brownback, Governor

PHYSICAL WAIVER APPLICATION

Dear Applicant:

Enclosed is the physical waiver packet you requested. Please read and follow the instructions carefully. If your application is incomplete (i.e., missing information or missing any required attachments), we will return it to you for correction.

The KCC will review the information submitted and notify you of its decision within 30 days of receiving all information. There is no provision for a temporary waiver during the application and review process. Please understand that the issuance of a waiver is in no way an automatic event. We must be satisfied that highway safety will not be compromised. If a waiver is issued, you must comply with its terms and conditions. Failure to do so will result in the revocation of the waiver.

If you have questions regarding the application or what documents you are required to submit please call (785) 271-3151. Thank you.

Sincerely,

Mike J. Hoeme, CDS
Director of Transportation

INSTRUCTIONS FOR PHYSICAL WAIVER

THE FOLLOWING MUST ACCOMPANY THIS APPLICATION

1. KCC Disclosure Form (Page 3)
2. Authorization For Release of Medical Information (Page 4)
3. Medical Evaluation Summary and Report by aboard qualified or board certified physiatrist or orthopedic surgeon (Page 5-6-7-8-9) and a statement from this physician on personal or institutional letterhead stating their opinion that with the current diagnosis the applicant can operate a motor vehicle in commerce safely.
4. Letters of recommendation from at least two licensed medical practitioners, written on their personalized or institutional letterhead. The reports and letters of recommendation shall indicate the opinions of the licensed medical practitioners regarding the ability of the driver to safely operate a commercial vehicle of the type to be driven.
5. Motor Carrier Agreement (Pages 10, 11, 12)
6. A photocopy of your application for employment (Employer will provide to you)
7. Unilateral Waiver/SPE certification Program Application (Page 13)
8. Clear photocopy of most current Medical Certificate (long form) and a statement from this physician on personal or institutional letterhead stating their opinion that with the current diagnosis the applicant can operate a motor vehicle in commerce safely.
9. Current Motor Vehicle Report of Driving Record (MVR). (Employer will provide-Note page 14)
10. Clear Copy of CDL or Drivers License

NOTE

**PHYSICAL WAIVERS ARE VALID FOR A PERIOD NOT TO EXCEED 24 MONTHS
FROM THE DATE OF ISSUE**

RENEWALS:

All renewal requests must complete and submit a new application and answer the following:

1. Total Miles Driven Under Current Waiver: _____
2. Total Violations Under Current Waiver: _____
3. Total Accidents Under Current Waiver: _____

FORWARD COMPLETED APPLICATION TO:

Attention: Gary Davenport
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027
Office: 785 271-3151

**DISCLOSURE
TO BE READ AND SIGNED BY APPLICANT**

It is agreed and understood that any misrepresentations of the information given herein shall be considered an act of dishonesty.

It is understood that this is an application for an **Intrastate Waiver of Physical Requirements** valid only within the State of Kansas.

I agree to furnish such additional information and complete such examinations as may be required to complete my application.

It is understood that should my condition worsen to the extent that I no longer meet the minimum standards as established by the State of Kansas, that I will surrender my Kansas Commercial Driver License until such time as I am medically again approved for licensing.

It is understood that my signature below authorizes the Corporation Commission of the State of Kansas to release my medical information to MKM, P.A. for the sole purpose of obtaining an independent medical review. I understand that both MKM, P.A. and the Corporation Commission of the State of Kansas will otherwise keep this information confidential.

Identification of Motor Carrier-Coapplicant:

Motor Carrier Name: _____ Phone: _____

Address: _____ City: _____ State: _____

Zip Code: _____ USDOT: _____ KS MCID: _____

Contact Person: _____

Date

Applicant's Signature

Mail completed application along with all requirements to:

Kansas Corporation Commission
Transportation Division-Gary Davenport
1500 SW Arrowhead Road
Topeka, KS 66604-4027

***MKM, P.A.
Kim M. Davies, M.D.
7844 Quivira
Lenexa, KS 66216***

Authorization For Release of Medical Information

Patient Name _____
Please print

Date of Birth _____ **Social Security #** _____

I hereby authorize release of medical information, diagnosis, test results, medications and any other pertinent medical information requested to Kim M. Davies, M.D. of MKM, P.A. Such information is for the purpose of evaluating my fitness to operate a commercial vehicle pursuant to standards and guidance of the Federal Motor Carriers Safety Administration. Information released will be used by Dr. Davies solely for this purpose, will be maintained confidentially, and will not be released to any third parties. A copy of this release shall be as valid as the original. This release is void one year after the date signed.

Signature

Date Signed

MEDICAL EVALUATION SUMMARY

**YOU MUST CAREFULLY READ THE
FOLLOWING INSTRUCTIONS BEFORE CONTINUING**

The attached **MEDICAL EVALUATION SUMMARY** must be completed for every skill performance evaluation (SPE) certificate applicant.

There are several important points about this Summary that you **must adhere to**:

1. Only a board qualified or board certified **physiatrist** (physician who specializes in physical medicine) OR **orthopedic surgeon** (specialist in afflictions of the skeletal system) can complete and sign the Summary. The signature of a general practitioner alone is not sufficient.
2. As the applicant, you must review and consider every block in Part II and check every box that applies to the type of duties or the environment you will be driving/working.

MEDICAL EVALUATION SUMMARY

Date: _____

From: _____
(Motor Carrier’s Name or Waiver Applicant’s Name)

To: _____
(Doctor’s Name) Must be Board Qualified or Board Certified Psychiatrist or Orthopedic Surgeon

Waiver Applicant Name: _____

The above driver is being referred to you for a medical evaluation summary as required by Section 391.49 of the Federal Motor Carrier Safety Regulations (FMCSR). The FMCSR states that the motor carrier shall furnish the examining psychiatrist or orthopedic surgeon with a description of the job tasks, which are contained herein. The FMCSR further states that the medical evaluation summary shall be completed, dependent upon the driver’s physical disability in accordance with the following objectives:

1. IN CASES INVOLVING AMPUTATION - The summary shall include an assessment of the driver’s physical capabilities as they relate to the driver’s ability to perform the tasks as specified in the accompanying job task description.
2. IN CASES INVOLVING LIMB IMPAIRMENT - The summary shall include an explanation as to how and why the impaired area interferes with the driver’s ability to perform the tasks as specified in the accompanying job task description. The summary shall also contain an assessment of whether the condition will likely remain medically stable over the driver applicant’s lifetime.
3. IN CASES INVOLVING EITHER AN UPPER LIMB AMPUTATION OR UPPER LIMB IMPAIRMENT, the summary shall include a statement by the examiner that the applicant is capable of demonstrating precision prehension (manipulating knobs and switches) and power grasp prehension (holding and maneuvering the steering wheel) with each upper limb separately.

Few people outside the motor carrier industry fully appreciate the mental and physical demands placed on commercial drivers. Medical examiners should not apply automobile driving experience to evaluate fitness of commercial driver applicants.

The physical demands of commercial driving and related tasks vary considerably with type of vehicles and duties involved. To effectively match job demands with an applicant’s abilities to meet these demands, the psychiatrist or orthopedic surgeon must know the type of vehicle to be driven, the job demands, and environment involved. For their own, as well as the safety of others, drivers minimally must have adequate:

(Summary Continued)

- A. Strength - of the skeletal muscles to turn large diameter steering wheels (20-24 inches) rapidly and maintain a grip on them when confronted with tire failures and/or striking potholes or obstructions on the roadway.
- B. Mobility - of the joints to reach various controls that must be pushed, pulled, or twisted; and to climb, bend, crawl, lift, twist, and turn to position for visual inspection; and to perform various related other associated tasks such as coupling and uncoupling trailers and vehicle inspections.
- C. Stability - of joints and of the torso to maintain alert driving postures to smoothly modulate foot and hand controls, to climb into and out of the vehicle cab and cargo compartments.
- D. Power Grasp and Prehension - of hands and fingers to control the steering wheel, operate the transmission (gear shift lever), air brake controls and various other tasks such as operating light switches, directional signals and horns.

THIS PART TO BE COMPLETED BY ORTHOPEDIC SURGEON OR PHYSIATRIST

Based upon this job task description (as indicated in Part II-A, B, and C) and your examination of this driver, please answer all questions below.

It is not necessary for physician to state whether this person is likely to be a safety risk on the highway. Our Waiver Specialist will conduct skill performance evaluations in the intended vehicles to determine whether limb-handicapped persons have overcome their handicaps. We are relying on your medical measurements and judgment for such information as asked below:

1. Does this driver have adequate MUSCLE STRENGTH to perform the tasks required?

- Yes
 No (If no, please indicate the impaired extremity)
Upper Extremity Right Left
Lower Extremity Right Left

2. Does this driver have adequate MOBILITY of the extremities and trunk to perform the tasks required?

- Yes
 No (If no, please indicate the impaired extremity)
Upper Extremity Right Left
Lower Extremity Right Left
Trunk

3. Does this driver have adequate JOINTS and TRUNK STABILITY to perform the tasks required?

- Yes
 No (If no, please indicate the impaired extremity)
Upper Extremity Right Left
Lower Extremity Right Left
Trunk

4. If this driver has an **impairment** of the: Hand or Upper limb
Or has an **amputation** of the: **Hand** (partial or full) or Upper limb

Does he/she have POWER GRIP and PREHENSION FUNCTION of the hand and fingers?
[Power Grip and precision prehension further defined: the capability of holding, clutching, clasping, or seizing firmly the steering wheel and/or other vehicle equipment to effectively control the vehicle and perform normal and emergency vehicle operations [Steering (potholes, tire failure (blowouts), etc), operate gear shift levers, air brake controls, light switches, directional signals, horns.]

- Right Yes No
Left Yes No

If no, do you recommend a surgical reconstruction to produce power grip and/or prehension?
 Yes No

5. If this driver has an UPPER or LOWER LIMB IMPAIRMENT (Right Left) or has an UPPER or LOWER LIMB AMPUTATION (Right Left)

Does he/she have:

- a. The APPROPRIATE TYPE OF PROSTHESIS OR ORTHOTIC DEVICE?
 Yes No N/A
- b. The appropriate type of TERMINAL DEVICE?
 Yes No N/A
- c. If yes, does the prosthesis/orthotic fit satisfactorily; is it in good operating condition?
 Yes No
- d. Is the applicant able to use the prosthetic/orthotic device proficiently?
 Yes No
- e. In case of hand or upper limb amputation or impairment does the prosthetic/orthotic device aid the driver in the ability to demonstrate power grasp and precision prehension?
 Yes No

If no to any of above, what is your recommendation? _____

6. Please give a clinical description of the prosthetic or orthotic device, power source, etc.

7. Does this driver have any other medical conditions, other than the physical disability indicated in Part III that will interfere with his/her ability to adequately perform the tasks required?

- No
- Yes - Explain _____

8. Please summarize your findings and evaluation, include assessment and medical opinion of whether the condition will likely remain medically stable over the lifetime of the driver applicant:

Physiatrist's or Orthopedic Surgeon's

Name: _____ Date: _____
(Print or Type)

Address: _____

Telephone Number: _____

Specialist Type: Physiatrist _____ Orthopedic Surgeon _____ Other _____
Board Certified Yes No
Board Eligible Yes No

Physiatrist's or Orthopedic Surgeon's

Signature: _____

(To Be Completed By Motor Carrier)

The following is a universal job task description; your attention is directed to those boxes that have been checked as pertinent to this particular driver.

A. Vehicle Type

Straight Trucks

Many have up to 5 axles,
Flatbed, tank or dump bodies.

Tractor-Trailers

Comprised of a power unit
(tractor) and one or more trailers.

Motor Coach

- i. Short-relay drives 4-5 hours to a turnaround point, exchanges trucks and drives back to starting point.
- ii. Long-relay drives 8-10 hours, sleeps for 8 hours and returns to starting point.
- iii. Straight-through to destination, including coast to coast operations, and typically is away from home for ____ nights at a time.
- iv. Sleeper-team drives constantly for 4 hours followed by 4 hours in the bunk while co-driver drives and typically is away from home ___ nights at a time.

B. Environmental Factors

Drivers may be subject to:

- a. Abrupt duty hour changes
- b. Sleep deprivation
- c. Unbalanced work/rest cycles
- d. Temperature and weather extremes
- e. Long trips without regular meals
- f. Short notice to assignment of run
- g. Tight delivery schedule
- h. Delay enroute
- i. Others _____

C. Physical Demand

Moderate physical activity levels are associated with commercial vehicle driving. Perceptual skills are needed to monitor the driving situation for relevant information. Manipulation skills are needed to turn the steering wheel, applying brakes, shift the gears, etc. The demands imposed on a commercial driver's sensory organs and musculoskeletal systems are briefly discussed below.

- Gear Shifting: The movement of the gearshift lever(s) requires moderate strength, timely coordination, and complex manipulation skills of right upper and left lower extremity. This individual's vehicle will have a _____ speed manual transmission.
- Vehicle equipped with semi-automatic transmission (manual shifting but no clutch).
- Vehicle equipped with a fully automatic transmission.
- Control of steering wheel requires strength, mobility, and power grip of upper extremities while maintaining stability of trunk.
- Operation of brake and accelerator pedal requires moderate strength, mobility, and coordination movement in lower extremities.
- Various tasks during driving, such as: operating light switches, windshield wipers, directional signals, emergency lights, horn, etc.; requiring moderate strength, mobility, and manipulative skills of upper extremities.
- Backing and parking: requires good depth perception, strength, and coordinated manipulative skills.
- Vehicle inspection: driver must evaluate the mechanical condition of the various vehicular systems such as: tires, brakes, suspensions, engines, and cargo. Climbing, bending, kneeling, crawling, reaching, stretching, turning, twisting, are essential for proper vehicle inspection.
- Cargo handling and inspection: drivers may be required to handle cargo, climb up and down perpendicular ladders, and enter/leave the cab or cargo body many times a day.
- Coupling and uncoupling: tractor-trailer drivers may hook up one or more trailers, this requires strength and full range of motion to climb, balance turn, grip, and pull.
- Mounting snow chains on tires requires pulling/lifting motions in the range of 35-90 pounds.
- Changing tires requires a combination of pulling, pushing, lifting, and motions in the range of 100 to 75 pounds.
- Vehicle modification(s) made for this driver are: _____

I certify that the information I provided in this application is true and correct to the best of my knowledge. Also, by signing below the applicant recognizes and acknowledges that if the waiver is granted it is only valid between points in Kansas while transporting intrastate freight and/or passengers.

Driver Applicant

Date

Carrier Official (if applicable)

Title

Date

UNILATERAL WAIVER/SPE CERTIFICATION PROGRAM APPLICATION

Please type or print clearly

Initial: _____
Renewal: _____

Identification of Applicant

Name: _____ Date of Birth: _____
Address: _____ City: _____ State: _____ Zip: _____
Home Phone: _____ Work Phone: _____
Commercial Driver's License #: _____ State Issuing Driver's License: _____
SSN: _____

Please Check All That Apply

- Limb Impairment or Amputation: _____ Description of Limb Impairment or Amputation: _____
- Diabetes: _____ Type: _____ Insulin: Yes _____ No _____ Oral or Injections: _____ Medication Taken: _____ Dosage: _____
- Vision Impairment: _____ Current Vision (each eye): Left: _____ Right: _____
- Hearing Impairment: _____
- Other Normally Disqualifying Impairment or Handicap: _____

Description Of Driving Operation

States of Operation: _____ Type Of Cargo: _____
Average period of Driving Time: _____ Type of Operation (Team, Relay, etc.) _____

Number of Years Driving Type of Vehicle In Application: _____
Number of Years Driving All Types of Vehicles: _____

Description of Vehicles(s)

Vehicle Type (truck, truck tractor, bus, etc): _____ If Bus, Seating Capacity: _____
Make: _____ Model: _____ Year: _____
Transmission Type (automatic or manual): _____ Number of Forward Speeds: _____
If Equipped with Auxiliary Transmission, Number of Forward Speeds: _____
Rear Axle Speed (single, 2 speed, 3 speed): _____ Type of Brake System: _____
Steering (Manual or Power Assisted): _____
Description of Trailer(s): _____ Number Of Trailers To Be Towed At One Time: _____
Years Experience Towing The Type(s) Of Trailers Indicated: _____
Description Of Vehicle Modification(s): _____

I Certify That I Am Otherwise Qualified Under Part 391 (Qualifications Of Drivers) Of The Federal Motor Carrier Safety Regulations Ant That All Information Is True And Accurate To The Best Of My Knowledge.

Signature: _____ Date: _____

MOTOR VEHICLE DRIVING RECORD (MVR)

Your motor vehicle driving record, as recorded by the Kansas Department of Revenue, Driving Control, will be checked by our office. Your record must not contain any:

- a. *suspensions, cancellations, or revocations* of your driver's license for the operation of any type of motor vehicle (including personal vehicles).
- b. involvement in any accident as defined below, in which you were also convicted for a moving traffic violation in a CMV. This type of accident involves any of the following:
 1. a fatality;
 2. bodily injury to a person who, as a result, receives immediate medical treatment away from the scene of the accident;
 3. one or more of the vehicles involved sustained disabling damage, requiring it to be towed from the scene.
- c. convictions for a *disqualifying offense*, as specifically defined in 49 CFR 383.51 (b)(2). These include:
 1. driving a commercial motor vehicle while have a blood alcohol concentration of .08% or more, driving while under the influence of alcohol, or refusing to submit to alcohol testing;
 2. driving a commercial motor vehicle while under the influence of a controlled substance;
 3. leaving the scene of an accident involving a commercial motor vehicle;
 4. conviction for a felony involving the use of a commercial motor vehicle; or use of one in the commission of a felony involving manufacture or distribution of controlled substances.
- d. convictions for more than one *serious traffic violation* as specifically defined in 49 CFR 383.5, in separate incidents, while driving a CMV. These include:
 1. exceeding the posted speed limit by 15 miles per hour or more;
 2. reckless driving, as described in K.S.A. 8-1566
 3. improper or erratic traffic lane changes;
 4. following the vehicle ahead too closely;
 5. a moving traffic violation (of state or local law) arising in connection with a fatal accident
- e. More than two convictions for any other *moving traffic violations* while operating a CMV. Moving traffic violations do not include vehicle weight or equipment violations.

Special Note: Any moving traffic violation for which you are arrested or cited for, or convicted of, during the processing of this application, must be immediately reported to this office. Failure to do so may result in a denial or revocation of the waiver. No waiver will be issued while any charge against you (for what would be a disqualifying offence under 49 CFR 383.51) is still pending. Convictions occurring during the processing of this application will be considered in your overall driving record.

82-4-6d. Waiver of physical requirements. (a) Any person failing to meet the requirements of 49 C.F.R. 391.41, may be permitted to drive a vehicle, other than a vehicle transporting passengers, if the director finds that the granting of a waiver is consistent with highway safety and the public interest.

(b) The application for a waiver shall meet these requirements:

(1) The application shall be submitted jointly by the person seeking the waiver and by the motor carrier wishing to employ the person as a driver.

(2) The application shall be accompanied by the following:

(A) A copy of the driver applicant's motor vehicle driving record. Any changes to this record occurring after submission of the application shall be immediately forwarded to the commission;

(B) reports of medical examinations, administered by a licensed medical practitioner, that are satisfactory to the director; and

(C) letters of recommendation from at least two licensed medical practitioners, written on their personalized or institutional letterhead.

(i) The reports and letters of recommendation shall indicate the opinions of the licensed medical practitioners regarding the ability of the driver to safely operate a commercial vehicle of the type to be driven.

(ii) Letters of recommendation regarding vision impairment shall be provided by a licensed ophthalmologist or optometrist who treated the driver applicant.

(iii) Letters of recommendation regarding limb impairment or amputation shall include a medical summary conducted by a board of qualified, or board-certified, physiatrists or orthopedic surgeons, preferably associated with a rehabilitation center.

(iv) Letters of recommendation shall include a description of any prosthetic or orthopedic devices worn by the driver applicant.

(3) The application shall contain a description that is satisfactory to the director of the type, size, and special equipment of the vehicle or vehicles to be driven, the general area and type of roads to be traversed, the distances and time period contemplated, the nature of the commodities to be transported and the method of loading and securing them, and the experience of the applicant in driving vehicles of the type to be driven;

(A) If the applicant motor carrier is a corporation, the application shall be signed by a corporation officer and the driver applicant.

(B) If the applicant motor carrier is a limited liability company, the application shall be signed by a company officer and the driver applicant.

(C) If the applicant motor carrier is a limited liability partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(D) If the applicant motor carrier is a partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(E) If the applicant motor carrier is a sole proprietorship, the application shall be signed by the proprietor and the driver applicant.

(4) The application shall specify that both the person and the carrier will file periodic reports as required with the director. These reports shall contain complete and truthful information regarding the extent of the person's driving activity, accidents in which the person may have been involved, and all suspensions, or convictions in which the person is or has been involved.

(5) By completing the application, both the driver applicant and the motor carrier applicant shall be deemed to agree that upon grant of the waiver, they will fulfill all conditions of the waiver.

(c) Each driver applicant shall complete a skill performance evaluation administered by a commission driver waiver program manager or a commission handicapped driver waiver specialist. The driver and motor carrier applicants shall secure the vehicle and provide the necessary insurance for the skill performance evaluation. The skill performance evaluation may be waived if the driver applicant has otherwise met the regulatory requirements of 49 C.F.R. 391.49.

(d) If the application is approved, a driver medical waiver card signed by the director and accompanied by a letter acknowledging approval shall be issued by the commission. While on duty, the driver medical waiver card shall be in the driver's possession. The motor carrier shall retain the accompanying letter in its files at its principal place of business during the period the driver is in the motor carrier's employment. The motor carrier shall retain this letter for a period of 12 months after the termination of the driver's employment.

(e) If the application is denied, an order setting forth an explanation for the denial and specifying the procedure for appeal of the decision shall be issued by the commission.

(f) The waiver shall not exceed two years and shall be renewable upon submission and approval of a new application.

(g) All intrastate vision waiver recipients shall be subject to the following conditions:

(1) Each driver shall be physically examined every year by the following individuals:

(A) A licensed ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard set forth in 49 C.F.R. 391.41(b)(10); and

(B) a licensed medical practitioner who attests that the individual is otherwise physically qualified under the standards set forth in 49 C.F.R. 391.41.

(2) Each driver shall provide a copy of the ophthalmologist's or optometrist's report to the medical practitioner at the time of the annual medical examination.

(3) Each driver shall provide the motor carrier with a copy of the annual medical reports for retention in the motor carrier's driver qualification files.

(4) Each driver shall provide a copy of the annual medical reports to the commission.

(h) The waiver may be revoked by the director after the applicant has been given notice of the proposed revocation and has been given a reasonable opportunity to show cause, if any, why the revocation should not be made.

(i) Each motor carrier and driver shall notify the director within 72 hours upon any conviction of a moving violation or any revocation or suspension of driving privileges.

(j) Transfers.

(l) Written notice shall be given to the director when any of the following occurs:

(A) A driver ceases employment with the "original employer" with whom the waiver was first granted.

(B) A change occurs in employment duties or functions.

(C) A change occurs in the driver's medical condition.

(2) Written notice shall be given by both the motor carrier and the driver within 10 days of any change in employment, duties, or functions, except in cases of termination of employment. Notice of termination of employment shall be given by both the motor carrier and the driver within 72 hours of termination.

(3) A waiver shall become void upon termination of employment from the motor carrier joint-applicant and until all requirements in this subsection are met.

(k) Renewals. An application for renewal of waiver shall be submitted 30 days before the expiration date of the existing waiver. (Authorized by and implementing K.S.A. 1999 Supp. 66-1,112; effective May 1, 1981; amended September 16, 1991; amended May 10, 1993; amended October 3, 1994; amended January 30, 1995; amended Jan. 4, 1999; amended July 14, 2000.)