



# Kansas RTAP Fact Sheet

A Service of The University of Kansas Transportation Center for Rural Transit Providers

## Driver Performance: What to Do When Your Driver Has Diabetes

by Pat Weaver

That phone call from Mrs. Jones was the second one today. She called to complain about the near miss they'd had earlier that morning on Bus 6. She reported that Mary, the bus driver, just pulled right out in front of a car. They'd almost been hit.

You know that Mary has diabetes, but don't know if she takes insulin. In thinking back, you also realize that she's had several appointments with her eye doctor lately. Mary has worked for you for several years, all without incident except a minor fender bender when she backed into a pole a couple of years ago. But now, two complaints in one day... What do you do? And how fast must you act?

As a transit manager, your responsibility is to operate with due diligence to ensure the safety of your system and comply with the law. At the same time, policies should not take away the rights and dignity of your employee unless there is an expectation that it protects the safety of your operation. Do you have policies in place right now that help to ensure the safety of your passengers, and help you respond appropriately when faced with an event that appears to compromise safety?

This article will review some of the

factors you should consider, and will provide some recommendations and resources for taking action.

### Why is diabetes a concern for drivers?

Short-term and long-term symptoms are both a concern for drivers. In the short term, diabetes can make and individual feel sleepy or dizzy, be confused, have blurred vision or, in more extreme circumstances, lose consciousness or have a seizure—all conditions that can affect ability to drive safely. Over the long term, diabetes can lead to symptoms that make it difficult to drive: nerve damage in hands, legs, feet or eyes; or blindness.

The incidence of diabetes increases significantly with age and some population groups—specifically, African Americans, Hispanic Americans and Native Americans—and is increasing at an alarming rate in the U.S. As a transit manager, you are increasingly likely to come into contact with a driver with diabetes who has been diagnosed and, perhaps, some who have not. One study predicts an increase to 30.3 million people in the U.S. over the next 25 years, a more than 65 percent increase in incidence

over today (Wild, 2004).

### The regulatory side of the question: "interstate" versus "intrastate" regulations

There are some specific regulatory issues that address drivers with insulin-dependent diabetes. It is important to know whether your transit agency is an "intrastate" service in Kansas or an "interstate" service, one which crosses state boundaries.

The regulation is clear in the case of interstate transportation. If your system operates across state lines, then you are federally regulated by the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation which outline physical requirements for drivers (49 CFR Part 391, Subpart B 391.15). The regulations, enforced by the Federal Motor Carrier Safety Administration (FMCSA), state that "a person shall not drive a commercial motor vehicle unless he/she is physically qualified to do so..."

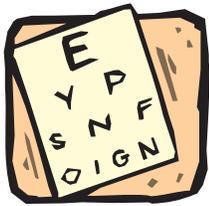
A CDL-licensed driver may not have an established medical history or clinical diagnosis of diabetes currently requiring insulin for control. Other medical conditions covered by the FMCSA include no current clinical diagnosis of any cardiovascular disease of any variety known to be accompanied by dizziness, shortness of breath, collapse, or congestive heart failure; no current clinical diagnosis of high blood pressure likely to interfere



with his or her ability to operate a vehicle safely; and no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his or her ability to drive safely.

In our example above, if Mary has an established medical history of diagnosis of diabetes requiring insulin control and was driving across state lines, she generally would not be eligible for a CDL. FMCSA may grant an exemption from the Federal diabetes standard for commercial drivers with insulin-treated diabetes mellitus for a renewable 2-year period if it finds that an exemption would likely achieve an equivalent level of safety. The burden of proof for determining this equivalent level of safety is substantial and includes driving experience, driving record and past incidence of diabetes complications; it is the responsibility of the driver to apply for this exemption.

State regulation of drivers for transit agencies in Kansas is a little different. Each state is permitted by Federal law to choose whether to apply Federal regulations to the safety qualifications for intrastate commercial drivers. Some states have



Trouble with eyesight can be a sign of diabetes.

adopted the Federal standards and do not allow people with insulin-treated diabetes to operate commercial motor vehicles; others have allowed drivers with diabetes to operate commercial motor vehicles under certain circumstances (Report to Congress, 2000).

In Kansas, a CDL-licensed driver transporting passengers operating in intrastate service in a vehicle that is not owned by a city or county must comply with the same safety standards as interstate drivers, including carrying a medical card that certifies fitness to drive. Kansas Statute 66-1,129 (c) excludes motor vehicles owned and operated by...any municipality or any other political subdivisions of this state." In addition, in Kansas there is no process for a diabetes waiver for

## Some facts about diabetes of interest to drivers

—18.2 million people in the United States, or 6.3 percent of the population, have diabetes. This number is growing substantially in the U.S., and it will be increasingly likely that you will encounter an employee with diabetes.

—While an estimated 13 million have been diagnosed with diabetes, 5.2 million people (or nearly one-third) are unaware that they have the disease. Your driver may be unaware, at least at first, that he or she has diabetes.

—The cause of diabetes continues to be a mystery, although both genetics and environmental factors such as obesity and lack of exercise appear to play roles. You may want to encourage development of a workplace wellness program to assist your employees in staying healthy.

—Often diabetes goes undiagnosed because many of its symptoms seem so harmless. Recent studies indicate that the early detection of diabetes symptoms and treatment can decrease the chance of developing the complications of diabetes. By requiring annual health assessments of your drivers, you may be helping them to avoid the long-term consequences of undiagnosed diabetes and other diseases.

—In the short term, diabetes can make the blood glucose levels too high or too low. As a result, diabetes can make an individual:

- l Feel sleepy or dizzy
- l Feel confused
- l Have blurred vision
- l Lose consciousness or have a seizure

—In the long term, diabetes can cause nerve damage in the hands, legs and feet, or eyes. In some cases it can cause blindness or lead to amputation.

action and consequences if there is a failure to comply with policies and procedures. Ron Straight, Transportation Manager of DWNWK, Inc. makes the excellent point that "a policy would cover more than diabetes;...[it would cover] all medical conditions affecting the operation of a vehicle."

In the example shared in this article, there are two levels of concern. The first is the issue of a driver with

CDL drivers with a passenger endorsement, according to Dale Moore, Public Service Administrator with the Kansas Corporation Commission.

No matter what the reason, your responsibility as a manager is to take action if you believe that a driver is not operating a vehicle safely.

### Do your agency policies provide enough guidance?

As you've probably experienced, there are no absolutes on writing policies that insure that your drivers will perform their work tasks safely at all times. Policies attempt to put procedures in place to provide safe, quality service and, then, describe

diabetes and what procedures, if any, must be in place to comply with the law. A transit agency may be confronted with a wide variety of circumstances that could affect a driver's ability to do the job safely and the policies should be flexible enough to address these circumstances.

The issue for transit managers is determining what policies and

procedures to establish that (1) screen out drivers in the hiring process who are not qualified to safely perform the essential tasks of the job, (2) set a standard of safety within the agency that requires drivers to identify any condition or circumstance which he or she believes could compromise the safe operation of their vehicle, (3) monitor performance of drivers on an on-going basis and take the appropriate immediate action when deficiencies are identified or safety is compromised, and (4) document any action taken which demonstrates your priority of system safety.

### **Policies that may help**

Examples of policies that screen drivers in the hiring process include the requirements for a physical and eye exam, a valid driver's license, a good driving record, pre-employment drug and alcohol testing, and a road test. Some guidance on how to interview potential drivers may be found in Questions and Answers About Diabetes in the Workplace and the Americans with Disabilities Act (see availability at the end of this article.)

Policies that set a standard of safety within the agency once a driver is hired require certain actions from drivers to prevent and/or identify situations that could possibly affect driving performance, such as: (1) annual physical examinations certifying fitness to drive, (2) random drug and alcohol testing, and (3) requirements to report the use of prescription and over-the-counter drugs with a medical sign-off that the medications do not affect ability to drive safely. In addition to these requirements, some agencies may include periodic ride checks (both on-board and unannounced road checks) and regular safety training as part of their regular operating policy and procedures.

One agency manager, when asked how he would handle a report of a driver's reckless driving, responded that he would "immediately speak with the [driver] about the complaints and the concern and what is happening from their point of view.... What are their concerns? Does the illness or treatment require/merit consideration of a medical leave of absence to pursue

treatment and resolution?"

The manager said he would also immediately do an on-board ride check and a few unobserved on-the-street observations to determine and document performance level. "[I would] seriously consider providing/ requiring a fitness-for-duty physical on DOT guidelines," he said.

If a physical exam is required of your drivers, whether by federal standard or by agency policy, consider requiring all drivers to obtain their examination from a common medical examiner, ideally from an occupational medicine group, according to Rick Morse, Manager, Maryland Transit Administration Utilization Review and Workers Compensation Program. Morse recommends that the employer also pay for the physical to allow the employer access to information about the exam to eliminate the possibility that poor results from an exam might be concealed.

### **Conclusion**

Addressing an issue such as driver health which may affect safe driving performance points out how important attention to written policies and procedures is. Your policies address standards for hiring drivers, standards for safe operating practices, and responses you, as a manager, will take when those standards are not met. At a minimum, your agency certainly should have a policy that requires all drivers to be appropriately licensed and meets the health requirements to hold that license (poor vision or other conditions which affect the ability to drive safely). If the requirement is for a CDL, and you are not a unit of government in the state, a driver with insulin-dependent diabetes is not eligible for a license.

Any driver holding any license in Kansas has the responsibility to report his/her condition to the Kansas Division of Motor Vehicles if there has been loss or alteration of consciousness within the last three years, according to Martha Bean, Public Service Administrator for the Kansas Office of Driver Review. The driver may not drive at all if those symptoms were experienced in the last six months, says Bean. Either upon request by the driver

or a letter of concern sent by someone else to the Kansas Driver Review at 915 SW Harrison, Topeka, KS 66626, a medical form will be sent to the driver to determine driving eligibility. For additional questions regarding this process, contact Bean at the Kansas Driver Review Office, (785) 296-3601.

No matter what the reason, your responsibility as a manager is to take action if you believe that a driver is not operating a vehicle safely. "If you suspect a driver of not being able to perform safely, and an accident occurs, you will be liable for not taking due diligence in assuring our system is as safe as possible," says Jay Banasiak, General Manager Wichita Transit. Ream Lazaro, of Lazaro & Noel, says that regardless of whether the driver is CDL-licensed or not, "if the manager was made aware of questionable performance problems of a driver that could be health-related and have safety implications" it would be "necessary for the manager to seek further medical evaluation."

In the example shared earlier, Mary's manager would be prudent to relieve her from driving duty when she was reported for reckless driving, discuss the reports with Mary and require Mary to receive a medical evaluation and driving-safety assessment before she returns to duty. If she has an established medical history or clinical diagnosis of diabetes currently requiring insulin for control, she is not eligible to drive a vehicle requiring a CDL.

For more information about safety requirements for drivers with a passenger endorsement who drive within the State of Kansas, contact Dale Moore at (785) 271-3151.

The Kansas Motor Carrier Regulations may be found online at [http://www.kcc.state.ks.us/trans/mc\\_regs.pdf](http://www.kcc.state.ks.us/trans/mc_regs.pdf). Go to the Kansas RTAP Web site, [www.ksrtap.kutcc.ku.edu](http://www.ksrtap.kutcc.ku.edu) for a link to these regulations and other resources under "What's New."

Reprinted from the April 2005 issue of the *Kansas TransReporter*, a publication of the Kansas Rural Transit Assistance Program (RTAP) at the Kansas University Transportation Center.