



September 20, 2021

Shannon L. Watson
Senior Advisor to the Associate Administrator for Policy
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Ms. Watson:

As the national association representing the trucking industry, the American Trucking Associations (ATA) writes to highlight our concern related to the June 14, 2021, recall of several Philips Respironics continuous positive airway pressure (“CPAP” or “PAP”) and Bi-Level PAP devices. We appreciate that the Federal Motor Carrier Safety Administration (FMCSA), through the Medical Review Board (MRB), is seeking to provide recommendations to certified medical examiners (MEs) and the commercial motor vehicle (CMV) drivers who use these CPAPs to assist with identifying options for drivers with machines covered by the recall. This is an important step in providing drivers with the solutions they need to safely remain on the road.

With millions of devices recalled, and many of them used by CMV drivers, Philips’ recall has widespread implications for commercial driver health, highway safety, and interstate commerce. As the MRB is aware, without appropriate treatment options, many drivers with obstructive sleep apnea (OSA) will be out of compliance with FMCSA’s physical qualifications for drivers regulations¹ and thus, lose CMV driving privileges. Because of this, ATA has asked that Philips prioritize CMV drivers in the repair and replacement of affected CPAP and PAP devices. The current guidance from Philips merely directs drivers to consult with their MEs about whether or not to continue their prescribed treatment with their Philips device. The MRB should consider providing more detailed guidance to drivers and their MEs who are in need of alternative treatment plans to manage their sleep apnea and stay in compliance with the physical qualification regulations.

We note that throughout the pandemic, commercial drivers have been integral in keeping our economy moving while seeking to maintain the highest level of safety on our roadways. Drivers have been and continue to be essential workers, transporting vaccines, personal protective equipment, food to communities, and other necessary relief. Due to the ongoing historic driver shortage, the strain on current drivers has been exacerbated. Thus, it is critical that

¹ 49 CFR § 391.41 - Physical qualifications for drivers.



drivers diagnosed with OSA that are currently on the road receive the necessary medical equipment they need to continue their operations.

To that end, Philips Respironics has provided limited guidance to industry since the recall was first issued. Notably, there is no clear timeline indicating when individuals might expect their device to be repaired or replaced, with some sources estimating it could take up to one year for devices to be fully operational.² With persistent supply chain shortages, this could be further delayed. Our commercial vehicle drivers with OSA cannot wait to resume their required CPAP treatments. ATA understands that Philips Respironics is under significant capacity and supply chain constraints, but reiterates that as repair and replacement options become available, commercial drivers should be prioritized in receiving them. Moreover, Philips and the MRB should engage industry stakeholders to ensure thorough consideration of all alternative solutions that would minimize disruptions to commercial drivers' required CPAP treatments.

As the federal agency tasked with ensuring commercial vehicle safety, FMCSA must be involved in finding more immediate solutions for impacted drivers. ATA applauds FMCSA for taking the initial step of convening the MRB to develop recommendations to resolve this critical issue. We hope that the Board is able to develop an actionable plan to provide prompt solutions for drivers as well as detailed guidance to both drivers and MEs on how to ensure drivers can continue operating safely. ATA would be pleased to support Philips Respironics, FMCSA, and the MRB in their efforts to address these challenges in any way we can.

Sincerely,

Laura Spector
Safety Policy Specialist
American Trucking Associations

² Sarah Hollenbeck, "It's a nightmare: Philips' CPAP recall could take a year to fix," *ABC Action News*, (September 2021), <https://www.abcactionnews.com/news/region-tampa/its-a-nightmare-philips-cpap-recall-could-take-a-year-to-fix>.