

## Medical Officers’ Responsibilities regarding Drivers

**Summary** This Information Bulletin outlines the responsibilities of medical officers working in NSW Health with regard to drivers, and the relevant legislation that permits reporting by medical officers of concerns about drivers to Transport for NSW.

**Document type** Information Bulletin

**Document number** IB2023\_055

**Publication date** 22 December 2023

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**Replaces** IB2013\_059

**Review date** 22 December 2024

**Policy manual** Not applicable

**File number** H23/98693

**Status** Active

**Functional group** Clinical/Patient Services - Medical Treatment

**Applies to** Public Health Units, Local Health Districts, Board Governed Statutory Health Corporations, Chief Executive Governed Statutory Health Corporations, Specialty Network Governed Statutory Health Corporations, Affiliated Health Organisations, Government Medical Officers, Community Health Centres, NSW Ambulance Service, Public Hospitals

**Distributed to** Ministry of Health, Public Health System, Divisions of General Practice, Government Medical Officers, NSW Ambulance Service, Private Hospitals and Day Procedure Centres

**Audience** All Staff in the NSW Public Health System;Medical Services;Public Hospitals;Clinical and Nursing;NSW Ambulance

## Medical Officers' Responsibilities regarding Drivers

### PURPOSE

This Information Bulletin outlines the responsibilities of medical officers working in NSW Health with regard to drivers, and the relevant legislation that permits reporting by medical officers of concerns about drivers to Transport for NSW

### KEY INFORMATION

NSW Health's policy is that the duty of confidentiality by medical officers to their patients must be preserved except where the patient consents to the disclosure of their health information, or where there is a lawful justification for disclosing the information without the patient's consent.

One context in which the disclosure of health information to third parties is permitted is following a medical assessment of a patient's fitness to drive. These assessments are generally done to assist the relevant licensing authority (Transport for NSW) to determine whether a patient is fit to hold a licence or conditional licence.

Information regarding this assessment process can be found on the [Service NSW website](#). The website also includes a "Medical Condition Notification Form", which can be completed by a medical officer and submitted to Transport for NSW following assessment of a patient's fitness to drive, in consultation with the patient.

There may be circumstances in which a medical officer holds concerns about a patient's fitness to drive and/or that the patient is a potential danger to the public if permitted to drive in any circumstances or is permitted to drive without being subject to conditions. These concerns may arise following an assessment of a patient's fitness to drive or in other circumstances.

In this event, medical officers should encourage patients to either self-notify their medical condition to Transport for NSW or consent to the medical officer notifying Transport for NSW of the practitioner's concerns, for example, via the submission of a completed "Medical Condition Notification Form".

Where the patient does not comply with the medical officer's advice, legislation in NSW provides protections for medical practitioners who directly report concerns to Transport for NSW.

Section 275(4) of the *Road Transport Act 2013* (NSW) provides as follows:

*An individual does not incur civil or criminal liability for reporting to Transport for NSW, in good faith, information that discloses or suggests that—*

*(a) another person is or may be unfit to drive, or*

*(b) it may be dangerous to allow another person to hold, to be issued or to have renewed, a driver licence or a variation of a driver licence.*

The above provisions are **discretionary** reporting requirements only. There is no mandatory reporting requirement for medical practitioners in relation to drivers who may be unfit to drive or that present a risk to the public.

In considering whether to make a report to Transport for NSW, medical officers should ensure that:

- They are acting in good faith – that is, they are acting out of a genuine concern for the safety of the driver or the safety of the public.
- The health information they disclose to Transport for NSW is limited to information that is relevant to the issue of the driver's fitness to drive or that allowing the person to hold a licence may be dangerous.

Situations that may result in a medical practitioner reporting a patient to Transport for NSW include where the patient is:

- Unable to appreciate the impact of their condition,
- Unable to take notice of the health professional's recommendations due to cognitive impairment, and/or
- Continues driving despite receiving appropriate advice and is considered likely to endanger the public.

In the event that the medical practitioner decides to directly report a patient to Transport for NSW, it is good practice to advise the patient that the practitioner is doing so.