

Unfit Driver Notifications

Where a patient has a medical condition that affects their ability to drive safely, they pose a risk to themselves and other road users. As a health practitioner, you play a crucial role in keeping user of the land transport system safe.

This fact sheet discusses what to do should you have concerns about a patient's fitness to drive.

Obligations under the Land Transport Act

Broadly there are two circumstances in which your obligations under the Land Transport Act may be triggered.

The first is where you are required to assess a patient's fitness to drive because the patient is required to obtain a medical certificate to do so. For example, if they are 75 years plus and are applying for or renewing their licence, or if they are applying for or renewing a heavy vehicle licence and it has been five years since their last medical certificate, or if Waka Kotahi has asked them to provide one.

The second situation is where through your interactions with the patient, or perhaps more commonly a family member, you form the view that the patient is likely to drive and may be unfit to do so. In this situation you have a duty under the Land Transport Act to notify Waka Kotahi of your concerns in writing. If information about a patient has come from a third party such as a family member, it will be important to schedule a consult with the patient so that you can assess for yourself whether there are grounds for a notification to Waka Kotahi.

In examining the patient or making an assessment you should consider the guidance provided by Waka Kotahi in its booklet, *Medical Aspects of Fitness to Drive: A Guide for Medical Practitioners*.

Process where concerns arise about a patient's fitness to drive

If it is your assessment that the patient is likely to be unfit to drive (for a specific length of time or permanently), or that they should drive with certain limitations, the next step is to inform the patient of your opinion and the reasons for it. This will likely be confronting for the patient and it may be appropriate for a support person of their choosing to be present.

The advice should be recorded in writing. It is a good idea to do this by way of a letter to the patient.

If the patient does not accept the advice or you consider it likely that they will continue to drive anyway, a notification must be made to Waka Kotahi. The following information will need to be provided:

1. A description of the patient's mental or physical condition which you consider renders them unfit to drive or means they should only drive subject to limitations;
2. How their condition affects their ability to drive;
3. Your communications with your patient regarding their fitness to drive; and
4. Your concern that they are likely to drive.

Your notification will require disclosure of your patient's personal health information. Under the Land Transport Act, provided your notification is made in good faith you will not be subject to civil or professional liability because of any disclosure of personal health information in the notice.

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Possible actions by Waka Kotahi

After receiving a notification under the Act, Waka Kotahi may require the patient to undergo further examination by an appropriate practitioner nominated by them, impose licence conditions, or suspend or revoke the patient's licence.

Emergency situation

In an emergency situation different considerations and processes apply. One example may be where a patient presents to the Emergency Department intoxicated and then tries to leave, insisting that they are fit to drive. This poses an immediate safety risk to the patient and to the public. You should speak to the patient, advise them that they are not fit to drive and that alternative transport can be arranged. If the patient continues to express an intention to drive, the next step is to call the Police.

Further guidance on unfit driver notifications can be found on Waka Kotahi's website

NZMII are here to help!

Contact us if you have any questions about your medical indemnity cover:

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