

# Fitness to drive: Navigating clinical and medico-legal complexities

Reading time:

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A practical guide for medical practitioners on assessing fitness to drive while managing professional risk

Determining a patient's fitness to drive can be challenging. It requires careful patient assessment, understanding of Australian clinical guidelines, consideration of medicolegal issues, and the need to balance sometimes competing considerations. This article provides guidance for practitioners.

## Clinical considerations

Driving is a complex task that requires integration of visual, motor, and cognitive functions whilst responding to rapidly changing external conditions. When illness, injury, disability, drugs or medications compromise this task, practitioners must determine whether the patient's ability to drive safely is impaired—a decision that's rarely straightforward.

Consider a 68-year-old with early-stage dementia who maintains excellent procedural driving skills but shows subtle executive function changes. Likewise, consider a 34-year-old patient with epilepsy who has been seizure-free for 10 years but has recently started new medication that potentially interacts with their anti-epileptic medication.

These scenarios illustrate why fitness-to-drive assessments demand both clinical acumen and practical wisdom. In each case, practitioners must balance evidence-based guidelines with consideration of individual patient circumstances. Australia's medical standards for assessing fitness to drive, the [Austroads Guidelines](#), provide nationally consistent guidelines across private, commercial, and heavy vehicle categories. Commercial and heavy vehicle drivers face more stringent standards, reflecting their greater public safety responsibility.

Most Australian jurisdictions mandate age-based medical assessments—annually from age 75 years in ACT, NSW, and Queensland; annually from age 80 years in Western Australia; while Victoria and Tasmania rely on condition-based assessments only (Wallis et al., 2020).

## Medico-legal considerations

When asked to assess fitness to drive, practitioners need to recognise that they no longer only owe obligations to the patient, but also to public safety.

**Drivers' reporting obligations:** In most Australian jurisdictions, drivers must report impairing conditions or treatment to licensing authorities. However, they only need to do so if they were aware that their condition or treatment may impair their ability to drive. Therefore, practitioners must clearly inform patients if they believe they have a medical condition, injury or illness (or they are taking treatment) that could impair their ability to drive. Any discussion should be documented in the medical records.

**Practitioners' reporting:** When drivers fail to self-report an impairment (or continue driving despite advice to the contrary), practitioners may need to consider making a notification to their local licensing authority.

In the Northern Territory and South Australia, medical practitioners have a **mandatory obligation** to notify the relevant licensing authority if they reasonably believe that an individual would endanger public safety by driving a motor vehicle because of a physical or mental illness. A similar mandatory obligation also exists in the ACT, but only in relation to the holder of a heavy vehicle licence.

In other Australian jurisdictions, medical practitioners may make a **voluntary notification** about a driver or licence holder if they are concerned that they are unfit to drive or if it may endanger public health to renew a driver's licence. Practitioners are protected from civil and criminal liability if they make a voluntary notification in good faith. It is recommended that practitioners inform patients and **obtain consent** before making a voluntary notification to the licensing authority. However, if patients refuse to consent, Australian privacy laws allow practitioners to disclose confidential health information about patients without their consent when it is necessary to lessen or prevent a serious or imminent risk of harm to an individual or the public.

**Documentation:** It is critical that all conversations with patients about their fitness to drive are documented in the medical record. In addition, any decision to make a mandatory or voluntary notification should also be documented, as well as the reasons for the decision. Such records can assist in providing crucial protection for practitioners in the event that the patient makes a complaint,

or a regulatory authority of Coroner investigates if a driver assessed by a practitioner is killed or injured on the road, or kills or injures another person.

**Medicare benefits:** Practitioners should be aware that age- or health-related medical examinations that include assessments to obtain or renew a private motor vehicle licence may attract Medicare benefits. However, compulsory examinations or tests to obtain any commercial drivers licence does not attract Medicare benefits.

**Communication and patient management:** Discussions about driving restrictions require sensitivity whilst ensuring patients understand the reasoning behind recommendations. Many patients view driving restrictions as significant lifestyle limitations, and reactions can range from acceptance to strong resistance.

Effective communication involves explaining the clinical rationale, discussing safety concerns for both the patient and public, exploring alternative transport options, and establishing clear review timelines. Documenting these conversations, including patient responses and any disagreement, provides important medicolegal protection.

Some patients may seek second opinions or challenge recommendations. Practitioners should support patients' rights to seek additional assessment whilst maintaining their professional position based on clinical evidence. When there is clinical uncertainty about a patient's fitness to drive or when patients disagree with the outcome of your assessment, practitioners may refer patients for a second opinion or recommend a driving assessments through Driver Trained Occupational Therapists.

## Deepen your understanding

Our comprehensive on-demand webinar brings together leading experts to examine the clinical, professional, and medicolegal aspects of fitness-to-drive assessments.

Access our webinar: "[Assessing Fitness to Drive: Medicolegal Considerations for Healthcare Practitioners](#)" featuring:

### Expert Panel:

- Ms Marianne Nicolle - Principal, Meridian Lawyers
- Dr Andrew Lingwood - Director, OccPhyz Consulting
- Dr Owen Bradfield - MIPS Chief Medical Officer

### What you'll learn:

- Medical standards impacting fitness-to-drive assessments across private, commercial, and heavy vehicle licences
- Case studies illustrating medical conditions and special circumstances affecting driving safety
- Medico-legal considerations and reporting obligations when patients may be unfit to drive
- Practical strategies to mitigate medicolegal risk in your assessments

Available now for MIPS members. MIPS members who attend for a minimum of 50 minutes are eligible for a Statement of Attendance with CPD points. Additional pre- and post-webinar CPD points are available.

### References

Austroads. (2022). Assessing Fitness to Drive for Commercial and Private Vehicle Drivers. 2022 Edition.

Thompson, J.P., Baldock, M.R., & Dutschke, J.K. (2018). Trends in the crash involvement of older drivers in Australia. *Accident Analysis & Prevention*, 117, 262-269.

Wallis, K.A., Matthews, J., & Spurling, G.K. (2020). Assessing fitness to drive in older people: the need for an evidence-based toolkit in general practice. *Medical Journal of Australia*, 212(9), 396-398.

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