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**Feedback on proposed the ACT framework  
for mandatory medical reporting  
Exposure Draft Road Transport (Driver  
Licensing) Amendment Regulation 2022**

**February 2023**

## About The Royal Australasian College of Physicians (RACP)

The RACP trains, educates and advocates on behalf of over 20,000 medical specialist physicians and 9,000 trainees, across Australia and Aotearoa New Zealand. The RACP represents a broad range of medical specialties including general medicine, paediatrics and child health, cardiology, respiratory medicine, neurology, oncology, public health medicine, infectious diseases medicine, occupational and environmental medicine, palliative medicine, sexual health medicine, rehabilitation medicine, geriatric medicine, and addiction medicine. Beyond the drive for medical excellence, the RACP is committed to developing health and social policies which bring vital improvements to the wellbeing of patients and the community.



*We acknowledge and pay respect to the Traditional Custodians and Elders – past, present and emerging – of the lands and waters on which RACP members and staff live, learn and work. The RACP acknowledges Māori as tangata whenua and Te Tiriti o Waitangi partners in Aotearoa New Zealand.*

## Executive summary

Thank you for acknowledging the concerns provided by the Royal Australasian College of Physicians (RACP [submission](#), September 2022) in the preceding consultation request, regarding the ACT requiring health practitioners to report on fitness to drive heavy vehicles.

The RACP provides further comment on proposed regulatory changes whereby medical practitioners and selected allied health practitioners will be required to notify Access Canberra when they believe a patient has a permanent or long-term illness, injury or incapacity that may impair their fitness to drive a heavy vehicle safely.

### Our key points are:

- We do not have a College position on mandatory reporting but have significant concerns where health care service delivery is impacted.
- There is an absence of an evidence base provided for this legislation.
- This initiative disregards evidence that the requirement adversely impacts the fundamental physician-patient relationship.
- An independent medical assessment mechanism to meet the objectives of this framework should be part of the operating schema.

## Feedback

Expert physician comments follow, referencing the *Exposure Draft Road Transport (Driver Licensing) Amendment Regulation 2022*.

### 1) Policy and legal requirements should have an evidence base

- We maintain that the merit and impact of mandatory reporting has not been established by evidence, and not in Australia, including its effectiveness in reducing the crash risk for drivers with relevant conditions.<sup>1</sup>
- We note that medical practitioner reporting obligations in relation to patient's fitness to drive are discretionary in all jurisdictions except South Australia and the Northern Territory, which have mandatory reporting obligations.

### 2) Potential adverse impact on the patient-doctor relationship

- We reiterate concerns regarding the impact of this proposal on the fundamental component of a health professional's practice. There is emerging evidence that such mandatory reporting laws adversely affects the physician-patient relationship.<sup>1</sup>
- Introducing new legislation changes the health practitioner and patient operating framework in a fundamental and irreversible way. Factors include:
  - That trust underpins the patient-physician relationship
  - Medical practitioners have an ethical and a legal responsibility to maintain patient confidentiality.
  - Medical practitioners have specific duties they must afford to their patient.
  - The impact on a person's (driver) care seeking behaviours, due to concerns about medical reporting and potential loss of license. In addition, this may disrupt the medical management of clinical conditions.
- Further, mandatory reporting via legislation imposes a broader public safety issue over the duty to the patient.

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<sup>1</sup> Koppel S, Bugeja L, Hua P, Di Stefano M, Charlton JL. Issues relating to the efficacy of mandatory medical reporting of drivers with medical and other fitness to drive relevant conditions by medical and other health practitioners. *Journal of transport and health*. 2019;12:237-52. These findings state there is inconclusive evidence regarding whether MMR: 1) increases reporting of drivers, or 2) reduces crash risk of these drivers.

### 3) Advice on an effective fit for purpose Fitness to Drive assessment mechanism

We note in the draft exposure regulation that “*the road transport authority may refer the report or evidence to an authorised medical reviewer or authorised occupational therapist for assessment of the person’s medical fitness to hold a driver licence or to drive a particular class or kind of motor vehicle in accordance with the required medical standards*” (page 7).

If this mandated requirement is progressed, we suggest:

- The assessment and report be undertaken by an **independent** provider, such as occupational and environmental physicians (who are specifically trained), respiratory and sleep medicine physicians, rehabilitation medicine physicians, addiction medicine physicians and other specialists that provide such patient assessments.
- As per our earlier [submission](#), that a separate systematic medical system process be established for commercial vehicles, for example with an independent medical body.

Additional comments:

- This new and additional requirement for processing the ACT’s responsibilities for determining fitness to drive is proposed without further fee provisions (except for those applying to a usual and not additional consultation).
- In other industries the examining medical practitioner reports to the employer that the person is “fit for duty” or “fit for duty subject to medical review” or “temporally unfit for duty” and at no time discloses the diagnosis to the employer thus maintaining privacy of medical information.
- There is evidence regarding the conflict induced when health professionals are placed in dual roles of providing medical care and assessing fitness to drive for their long-haul truck driver patients.<sup>2</sup> This problem can be resolved by specially trained and independent assessors.
- The Australian and New Zealand Society of Occupational Medicine (ANZSOM) has a training package in development with stakeholders, for medical practitioners to conduct health assessments for commercial vehicle drivers to a high standard.

### 4) Further remarks

- **The threshold to report needs clarification.** The threshold between holding an “opinion” that a patient has a condition versus forming a “firm diagnosis” remains a grey area and places pressure on the medical practitioner when they may not have discussed the matter with the patient.
  - *The Guidance note for Health Practitioners – Reporting heavy vehicle drivers to Access Canberra* states it does not require 100% certainty, but rather that a diagnosis is highly likely on factor balance and the person needs to undergo further assessments to confirm a diagnosis. “*The proposal does not require an opinion about a person’s ability to drive a heavy vehicle safely in every examination or assessment. However, when this opinion is formed following an examination or assessment of a person it must be reported it within 7 days to Access Canberra. An opinion may be formed weeks or months after the initial examination or assessment at which time it then must be reported.*”
- **Nurse Practitioners should be included** in the document as “*Relevant Health Practitioners*” recognising their scope of practice and qualifications.

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<sup>2</sup> Johnson JK, Terry AL, Vingillis E. Providing healthcare and fitness to drive assessments for long-haul truck drivers: A qualitative study of family physicians and nurse practitioners. *Journal of Transport & Health*. 2022 Mar 1;24:101324.

- **There is a need to undertake research in multiple jurisdictions** to investigate the efficacy of medical mandatory reporting in this industry.

Thank you for considering our submission. We would like to continue to be part of the development and implementation of policy on fitness to drive. Please contact [policy@racp.edu.au](mailto:policy@racp.edu.au) to enable further discussion.