

SMA's Letter and MOH's Reply on DOCTORS' DUTY TO REPORT UNFIT-TO-DRIVE CASES

In October 2017, SMA received feedback from members regarding Fitness to Drive, specifically on how a doctor can highlight unfit-to-drive cases to the Traffic Police, especially in scenarios where the patient refuses consent for disclosure.

The SMA Council deliberated and sent a letter to the Ministry of Health (MOH) in November 2017, highlighting that:

1. there was no mechanism to report unfit-to-drive cases to the relevant authorities;
2. there was no means to require a second (or specialist) opinion on continuing fitness to drive; and
3. there was no assurance of absolution from a breach of patient confidentiality, if a doctor unilaterally reports an unfit-to-drive case.

MOH responded via email in November 2017, indicating that it was collating responses from the Traffic Police, Land Transport Authority and other stakeholders.

In March 2018, MOH provided an official response on the matter. Both SMA's letter and an extract of MOH's official response are reproduced below.

Via email & post

SMA's letter to MOH

14 November 2017

A/Prof Benjamin Ong
Director of Medical Services
MINISTRY OF HEALTH

Dear A/Prof Ong,

Fitness to Drive: duty to report/warn

Doctors have the responsibility of certifying persons as fit to drive at intervals required by relevant Acts or Regulations. However, in the interval between such statutory examinations, we sometimes encounter patients who because of specific acute conditions, have become unfit to drive with immediate effect.

Examples are previously-well patients upon suffering their first epileptic seizure or their first episode of severe psychosis, or diabetics whose remaining good eye had acutely deteriorated from retinopathy so much that safe driving can no longer be assured.

Such patients are clearly a hazard to themselves and to other road-users, and should be prevented from driving with immediate effect, i.e. even before their next statutory examination. While some such patients would voluntarily stop driving following medical advice, others remain in denial, lack sufficient insight to comply or simply refuse outright. At the present there is no mechanism by which doctors can alert the relevant authorities to revoke the driving license of those unfit to drive, and in fact no assurance of absolution from a breach of patient confidentiality if he unilaterally takes either measure.

Although we have identified this gap that results in public hazard, the SMA has no authority with which to bridge it. We therefore bring this to the attention of your Ministry for consideration of any necessary action. Doctors would greatly appreciate a single point of contact to inform the relevant authority, as well as the assurance of absolution from breach of patient confidentiality when doing so, as they support public safety by identifying drivers no longer able to do so safely.

Yours sincerely,

Dr Wong Tien Hua

President,

Singapore Medical Association



MOH's Reply [Extract]

There was no mechanism (e.g. single point of contact) by which doctors can alert the relevant authorities to revoke a patient's driving license;

MOH's response: MOH has followed up with [Ministry of Home Affairs] MHA and Traffic Police (TP) on this point. To facilitate ease of voluntary reporting, TP has agreed for SMA to publish the email address, SPF_TP_Medical@spf.gov.sg, in SMA's guidelines. This email will be in addition to the postal addresses and fax numbers in SMA's current medical guidelines on fitness to drive.

There was also no policy to require a second (or Specialist) opinion on continuing fitness to drive;

MOH's response: Currently, as indicated in the SMC's Ethical Codes and Ethical Guidelines (ECEG), it is the doctors' clinical and ethical responsibility in providing appropriate advice to patients on their medical conditions and implications of the conditions. SMC's ECEG A3(4) also states that: "If you cannot provide services that are necessary for your patients, or most beneficial for your patients, you must offer to refer them to other doctors or institutions which can provide the most appropriate service."

Lack of assurance of absolution from a breach of confidentiality if the patient who refused to stop driving was reported even when this was done in the interest of public safety.

MOH's response: Although there are no expressed provisions in the Road Traffic Act (Cap. 276) related to protection for the doctor in reporting patients fitness status to drive, there are the following legal provisions and guidelines, on the grounds of public interest, to protect doctor in the event that a patient reports confidentiality breach:

- (a) First, section 17(3) of the Personal Data Protection Act (PDPA), read with the Fourth Schedule, provides exceptions for disclosure without consent. The Fourth Schedule, paragraph 1, states that: "An organization* **may disclose personal data about an individual without the consent of the individual** in any of the following circumstances: ... (g) the disclosure is to a **public agency** and such disclosure is **necessary in the public interest.**" ("organization" is defined in the PDPA to include individuals.)
- (b) Second, the SMC ECEG provides guidance on the circumstances related to defensible disclosure without consent. C7(5) of the ECEG states that "**Disclosure without consent is generally defensible** when it is mandated by law, it is necessary in order to protect patients or others from harm, when the involvement of parents and legal guardians is beneficial to minors or **where such disclosure is in patients' best interests.**"
- (c) Furthermore, if the patient brings a civil suit against the doctor for breach of confidentiality, the doctor can rely on a **defence of public interest** if there are clear facts to indicate that the patient had posed a danger to the public. ♦