

Confidentiality: patients' fitness to drive and reporting concerns to the DVLA or DVA

1 In our guidance *Confidentiality: good practice in handling patient information* we say:

1 Trust is an essential part of the doctor-patient relationship and confidentiality is central to this. Patients may avoid seeking medical help, or may under-report symptoms, if they think that their personal information will be disclosed by doctors without consent, or without the chance to have some control over the timing or amount of information shared.

60 Doctors owe a duty of confidentiality to their patients, but they also have a wider duty to protect and promote the health of patients and the public.

62 You should ask for a patient's consent to disclose information for the protection of others unless the information is required by law or it is not safe, appropriate or practicable to do so.¹ You should consider any reasons given for refusal.

64 If it is not practicable or appropriate to seek consent, and in exceptional cases where a patient has refused consent, disclosing personal information may be justified in the public interest if failure to do so may expose others to a risk of death or serious harm. The benefits to an individual or to society of the disclosure must outweigh both the patient's and the public interest in keeping the information confidential.

67 Before deciding whether disclosure would be justified in the public interest you should consider whether it is practicable or appropriate to seek consent.¹ You should not ask for consent if you have already decided to disclose information in the public interest but you should tell the patient about your intention to disclose personal information, unless it is not safe or practicable to do so. If the patient objects to the disclosure you should consider any reasons they give for objecting.

68 When deciding whether the public interest in disclosing information outweighs the patient's and the public interest in keeping the information confidential, you must consider:

- a** the potential harm or distress to the patient arising from the disclosure – for example, in terms of their future engagement with treatment and their overall health
- b** the potential harm to trust in doctors generally – for example, if it is widely perceived that doctors will readily disclose information about patients without consent
- c** the potential harm to others (whether to a specific person or people, or to the public more broadly) if the information is not disclosed
- d** the potential benefits to an individual or to society arising from the release of the information

- e the nature of the information to be disclosed, and any views expressed by the patient
- f whether the harms can be avoided or benefits gained without breaching the patient's privacy or, if not, what is the minimum intrusion.

If you consider that failure to disclose the information would leave individuals or society exposed to a risk so serious that it outweighs the patient's and the public interest in maintaining confidentiality, you should disclose relevant information promptly to an appropriate person or authority.

About this guidance

- 2 Doctors owe a duty of confidentiality to their patients, but they also have a wider duty to protect and promote the health of patients and the public.² This explanatory guidance sets out the steps doctors should take if a patient's failure or refusal to stop driving exposes others to a risk of death or serious harm.³

Fitness to drive: doctors' and patients' responsibilities

- 3 The Driver and Vehicle Licensing Agency (DVLA) in England, Scotland and Wales and the Driver and Vehicle Agency (DVA) in Northern Ireland are legally responsible for deciding if a person is medically unfit to drive. This means they need to know if a person holding a driving licence has a condition or is undergoing treatment that may now, or in the future, affect their safety as a driver.
- 4 The driver is legally responsible for telling the DVLA or DVA about any such condition or treatment. Doctors should therefore alert patients to conditions and treatments that might affect their ability to drive and remind them of their duty to tell the appropriate agency. Doctors may, however, need to make a decision about whether to disclose relevant information without consent to the DVLA or DVA in the public interest if a patient is unfit to drive but continues to do so.

Assessing a patient's fitness to drive

- 5 When diagnosing a patient's condition, or providing or arranging treatment, you should consider whether the condition or treatment may affect their ability to drive safely. You should:
 - refer to the DVLA's guidance *Assessing fitness to drive – a guide for medical professionals*,⁴ which includes information about disorders and conditions that can impair a patient's fitness to drive
 - seek the advice of an experienced colleague or the DVLA's or DVA's medical adviser if you are not sure whether a condition or treatment might affect a patient's fitness to drive.⁵

Reporting concerns to the DVLA or DVA

- 6 If a patient has a condition or is undergoing treatment that could impair their fitness to drive, you should:
 - a explain this to the patient and tell them that they have a legal duty to inform the DVLA or DVA
 - b tell the patient that you may be obliged to disclose relevant medical information about them, in confidence, to the DVLA or DVA if they continue to drive when they are not fit to do so
 - c make a note of any advice you have given to a patient about their fitness to drive in their medical record.
- 7 If a patient is incapable of understanding this advice – for example, because of dementia – you should inform the DVLA or DVA as soon as practicable.

- 8 If a patient refuses to accept the diagnosis, or the effect of the condition or treatment on their ability to drive, you can suggest that they seek a second opinion, and help arrange for them to do so. You should advise the patient not to drive in the meantime. As long as the patient agrees, you may discuss your concerns with their relatives, friends or carers.
- 9 If you become aware that a patient is continuing to drive when they may not be fit to do so, you should make every reasonable effort to persuade them to stop. If you do not manage to persuade the patient to stop driving, or you discover that they are continuing to drive against your advice, you should consider whether the patient's refusal to stop driving leaves others exposed to a risk of death or serious harm. If you believe that it does, you should contact the DVLA or DVA promptly and disclose any relevant medical information, in confidence, to the medical adviser.
- 10 Before contacting the DVLA or DVA, you should try to inform the patient of your intention to disclose personal information. If the patient objects to the disclosure, you should consider any reasons they give for objecting. If you decide to contact the DVLA or DVA, you should tell your patient in writing once you have done so, and make a note on the patient's record.

Responding to requests for information from the DVLA or the DVA

- 11 If you agree to prepare a report or complete or sign a document to assist the DVLA's or the DVA's assessment of a patient's fitness to drive, you should do so without unreasonable delay.

Endnotes

- 1 We give examples of when it might not be practicable to seek consent in paragraph 14 of *Confidentiality: good practice in handling patient information*. You can find all of our guidance online at www.gmc-uk.org/guidance.
- 2 See 'The duties of a doctor registered with the General Medical Council' in *Good medical practice*, which you can find at www.gmc-uk.org/guidance.
- 3 The principles in this guidance also apply to drivers and pilots of other kinds of regulated transport, including rail, water and air, although such individuals are likely to undergo medical assessment as part of the relevant licensing or certificating process.

If you are concerned that a patient who holds a private or commercial pilot's licence may be medically unfit to fly an aircraft, you can contact the UK Civil Aviation Authority's medical department on 0330 022 1972 for confidential advice or, out of hours, either contact the CAA's main reception on 0330 022 1500 or email medicalweb@caa.co.uk.

For advice about a seafarer, you can contact the Maritime and Coastguard Agency health and safety branch for advice at seafarers.h&s@mcga.gov.uk.

If you are concerned that a train driver's medical condition or treatment may make them unfit to drive a train, the advice from the Office of Rail and Road (ORR) is to make contact with their employer's HR department in the first instance. The ORR can provide contact details for train operators in Great Britain if you know the name of the employer. You can contact the ORR by email at rsd.admin@orr.gsi.gov.uk.
- 4 You can find this at www.gov.uk/government/publications/assessing-fitness-to-drive-a-guide-for-medical-professionals.
- 5 You can contact the DVLA's medical advisers on 01792 782 337 or at medadviser@dvla.gsi.gov.uk, and the DVA on 0800 200 7861.