

Driving and epilepsy – Information for patients

This brochure provides background information about driving and epilepsy in Australia, in particular the reasons behind driving restrictions in people who have had one or more seizures. Details on the specific restrictions can be found online at <http://www.austroads.com.au/drivers-vehicles/assessing-fitness-to-drive>.

Many people consider driving an important or even essential part of life. Suspension of a person's driving licence is usually done as a form of punishment for serious or repeated driving offences. However a person with epilepsy has done nothing wrong but can still have their licence suspended. This can mean the loss of a person's job, as well as causing major inconvenience to them and their family. This can be particularly frustrating for the person with epilepsy because generally he or she is perfectly fit to drive most of the time. The problem is that if a seizure occurs while driving, it often results in a crash and sometimes death or serious injury to the driver or other road users. The governments of some countries have tried to eliminate this risk by banning driving for all people with epilepsy. However, Australian authorities have decided that people with epilepsy can drive as long as the risk of having a seizure whilst driving is small. Different people with epilepsy will have different risks.

Who should notify the Driving Licensing Authority (DLA) if a driver has epilepsy?

The driver is legally obliged in all Australian states and territories to report any medical condition to the DLA that might affect their ability to drive safely. This must be done immediately rather than waiting until the licence is due for renewal.

Doctors in South Australia and the Northern Territory are obliged by law to notify the DLA if a patient has a medical condition that could make driving unsafe. In other states and territories, most doctors will not report patients to the DLA unless they believe the patient will continue to drive when it is unsafe. They then have an ethical responsibility to the patient and the community to report them.

How is fitness to drive determined?

In epilepsy, impairment of driving is intermittent but severe. In other words, drivers with epilepsy are 100% fit except during the few minutes of a seizure, when they are 100% unfit and are likely to have a crash. Determining fitness to drive in epilepsy is a prediction of the likelihood of a seizure occurring while driving. This will depend on factors such as the type of epilepsy, the number of seizures that have occurred, the situation under which the seizures occurred and whether a crash has happened as a result of a seizure. It also depends on how long it has been since the last seizure. The Australian national standards take these factors into account when determining the individual person's risk.

Who decides fitness?

The state and territory driver licensing authorities (DLAs) have the ultimate responsibility of deciding whether a person with epilepsy should receive a driving licence. However, in practice, the DLAs ask the doctor who treats the patient to make the decision.

What's wrong with the treating doctor deciding fitness to drive?

A doctor who is treating a patient and who is also certifying the patient's fitness for the DLA has a conflict of interest. On the one hand, they are working for the patient but on the other hand, they are working for the DLA. This causes two problems:

Unsafe decisions

The doctor may feel under pressure to certify a patient fit to drive when they are not safe to drive. This might be because the doctor feels sympathy for the patient's situation, particularly if it means that they will lose their job if they cannot drive. The only thing that may stand between the patient and their driving licence is the treating doctor and the patient may see the doctor, rather than the DLA, as responsible for their licence suspension.

Damage to the doctor-patient relationship

Effective management of epilepsy requires a trusting relationship between the patient and their doctor. This relationship is essential if the patient is to trust the doctor sufficiently to follow their advice on treatment, and provide accurate information on their progress. If the doctor is seen as the person responsible suspending their driving licence, this relationship will be damaged and medical management may suffer. The patient may be less willing to follow advice and may conceal information about their condition. Because of this close cooperative relationship, the doctor cannot be expected to make an objective decision and the doctor may make an unsafe decision to avoid damaging that relationship.

Access to driver licensing records

Unlike the DLA, the treating doctor does not have access to the patient's driving records or previous medical reports to the DLA, which may contain vital information.

Legal liability

While the legal responsibility for driver licensing rests with the DLA, they are acting on advice provided by the treating doctor. Treating doctors are not legally protected and can be sued or even criminally charged if a patient they have certified fit to drive has a crash.

How can the system be improved?

Neurologists believe that a better system would be one in which the treating doctor provides information about the patient's epilepsy to the DLA and, based on that information, the DLA decides whether the patient is fit or not. The Australian and NZ Association of Neurologists (ANZAN) and the Epilepsy Society of Australia (ESA) have developed a form for the neurologist to submit that contains information necessary for the DLA to determine fitness to drive or not. Complex cases and appeals should be decided by a panel of experts and the ESA has offered to help set this up. Such a panel already exists in Victoria.

What is the "new" system?

When asked by the DLA to provide a medical form (this is normally done every 12 months for people who have notified the DLA that they have epilepsy), you should sign the Consent section of the form to allow the neurologist to provide your medical information to the DLA. The doctor will then fill in the ANZAN-ESA form that contains information about your epilepsy and send it, along with the DLA form, to the DLA. It will then be up to the DLA to decide if you can drive.

This system began in NSW in December 2017, with plans to extend it to other states and territories in the future.

Please note that it is already the driver's legal responsibility to inform the DLA if he or she has a medical condition that could affect their ability to drive safely.

Safe decisions about fitness to drive rely on accurate information about the person's health. Proper treatment also depends on accurate information. Please do not hide information from your doctors!