

Who is Fit to Drive? Amended Legislation Expands and Clarifies Medical Reporting Requirements Under the Highway Traffic Act

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In Ontario, all drivers are required to meet basic medical and vision standards in order to operate a motor vehicle. Physicians and optometrists have long been required by law to report certain persons who suffer from conditions that may make it dangerous for that person to operate a motor vehicle.

On July 1, 2018, amendments to the medical reporting requirements under the *Highway Traffic Act* and associated regulations came into effect. The amendments bring a number of significant changes to the reporting regime, including the addition of nurse practitioners and occupational therapists and the clarification of medical conditions that require reporting.

Notable Changes

Firstly, nurse practitioners are now included alongside physicians and optometrists in the list of "prescribed persons" with mandatory reporting requirements.

Secondly, the amendments include a fairly broad list of prescribed medical conditions, functional impairments, and visual impairment that nurse practitioners and physicians must report. These prescribed conditions include certain cognitive impairments, sudden incapacitations, motor or sensory impairments, visual impairments, substance abuse disorders, and psychiatric illnesses. Optometrists are only required to report with respect to visual impairments. Previously, mandatory reporting obligations were merely based on the subjective opinions of practitioners that a person was suffering from a condition "that may make it dangerous for the person to operate a motor vehicle."

The amendments also create a completely new category for discretionary reporting, whereby prescribed persons which include physicians, nurse practitioners, optometrists, and occupational therapists (OTs), may report a person who "in the opinion of the prescribed person, has or appears to have a medical condition, functional impairment or visual impairment that may make it dangerous for the person to operate a motor vehicle." The amendments therefore make it mandatory for nurse practitioners, physicians, and optometrists to report impairments on the prescribed list of conditions, but discretionary for the above listed practitioners and OTs to report illnesses arising from any other type of condition.

New, standardized reporting forms have also been introduced. Physicians, nurse practitioners, and OTs must use the two-page [Medical Condition Report](#), while optometrists must use the [one-page Vision Report](#). Both forms include selections for the most frequently reported conditions. The specific conditions are not comprehensive. They are examples of some of the most frequently reported high-risk conditions that warrant a licence suspension that are included for ease of completion by the reporting practitioner. Each section also includes an "other" option so that the practitioner can report any high risk condition that is not listed.

Patient Involvement

The [Ontario Ministry of Transportation website](#) encourages practitioners to inform their patients in advance of submitting Medical Condition Reports or Vision Reports, even though practitioners are not required to obtain consent. It is important for patients to understand that, in some cases, making such a report is a mandatory requirement. Even in the case of discretionary reports, patients should be advised that the report is being made in the interest of their own safety and that of all road users.

The *Freedom of Information and Protection of Privacy Act* (FIPPA) requires the ministry to provide patients with a copy of the report upon request. If a practitioner is concerned that releasing the report would threaten someone's health or safety, they should notify the ministry by checking the appropriate box on the form and calling 416-235-1773 or 1-800-268-1481.

The authority to make either mandatory or discretionary reports take precedence over any duty of confidentiality imposed on the prescribed practitioners. The *Highway Traffic Act* also shields the prescribed practitioners from any proceedings brought against them for making such reports.

OT Practice Directive

To assist OTs in navigating their inclusion in the new discretionary reporting regime, the College of Occupational Therapists of Ontario has published a [Guide to Discretionary Reporting of Fitness to Drive](#). The guide summarizes the discretionary reporting rules as they apply to OTs, describes professional obligations that exist in addition to legal provisions, and discusses various types of approaches for assessing fitness to drive. The guide also discusses privacy concerns, recommended documentation for reporting, and inter-professional collaboration.

A complete version of the new medical and vision reporting requirements can be found in sections 203 and 204 of the *Highway Traffic Act* and sections 14.1 and 14.2 of *Ontario Regulation 340/94*.

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