



Driving and AIDS Dementia Complex (ADC)

This fact sheet outlines the implications and liabilities associated with allowing people with ADC to continue driving, and offers practical suggestions to enable health care workers and carers to deal with this sensitive issue.

It may be difficult for the concerned health care worker (HCW) or carer to broach the subject of driving with a person affected by AIDS Dementia Complex (ADC). This is a sensitive issue that needs careful handling. A conflict arises between promoting the person's independence and ensuring that they and the community are safe.

However, by addressing the subject early, perhaps only minor restrictions on where and when a person can drive may be necessary early in the progression of the dementia. This permits the person time to consider options and arrange alternative transport well before the condition precludes driving altogether.

What are the legal implications?

Civil Law:

- Health care workers (HCWs) have a responsibility to take reasonable steps to ensure someone does not place themselves or others at risk.
- HCWs may be liable under civil law if reasonable steps are not taken.
- Professional Indemnity Insurers are aware of HCWs potential liability.
- Any intervention should be documented in the person's medical record.

Criminal Liability:

- In NSW doctors are not legally required to report to the Roads and Traffic Authority (RTA) any persons unfit for driving (Note: this differs in other states). However, doctors are still liable under civil law (as above).

Indemnity:

- Any person who reports a potential unfit driver to the RTA in good faith is protected from civil and criminal liability (National Law).

Patient's Liability:

- A person must inform the RTA of any injury or condition that affects their driving which is long term OR any permanent disability.
- Health workers should advise clients of their legal responsibility.
- Common law liability may apply if a person continues to drive when they are aware of a condition that may impact on driving.
- Insurers may opt to recover costs paid to a third party in the case of an accident.

What can health care workers do?

Ethics:

- Professional Codes of Ethics require HCWs to balance the client's rights and needs with the health and safety of the community. This may override the client's expectation of confidentiality.

If a HCW has concerns that a person's ability to drive is compromised by ADC they should:

- Raise the matter with the person and/or their carer.
- Advise the person to have their medical practitioner assess their fitness to drive.
- Suggest that the person do a driver assessment (see over).
- Advise the person of their legal responsibility to inform the RTA.



Driving and AIDS Dementia Complex (ADC)

This fact sheet outlines the implications and liabilities associated with allowing people with ADC to continue driving, and offers practical suggestions to enable health care workers and carers to deal with this sensitive issue.

If the person is uncooperative, the HCW can:

- Discuss their concerns with the person's medical practitioner and suggest they assess the person and, if necessary, complete a RTA Medical Report form.
- If this is not possible, or the person refuses a medical assessment, the HCW/medical practitioner can report the person to the RTA who will then investigate the matter further.
- Ensure any intervention is documented in the person's medical record.

The medical practitioner may certify that the person:

- Is fit to drive. The medical practitioner sends the Medical Report form to the RTA medical unit where a decision is

made about licence status (re-issue, maintain etc.).

- Is fit to drive, provided certain restrictions are adhered to (eg. drive not more than 10km from home).
- Is unfit to drive. The medical practitioner advises the patient not to drive and forwards Medical Report form to the RTA medical unit. The RTA will then take steps to cancel the licence.
- Requires referral to an appropriate specialist.
- Requires an Occupational Therapy driving assessment.
- Requires a RTA Driving Test.

Practitioners may consider reporting, to the RTA, any patients who are unwilling to comply with driving restrictions that the practitioner recommends.

Driver rehabilitation and training centres:

A person whose driving abilities may be affected by ADC can undergo a driver assessment by an occupational therapist trained in driver rehabilitation. The assessment determines current driving skills and can recommend, for example, whether

retraining of driving skills or restrictions on the driving licence are required. Contact Occupational Therapy Australia Ph: (02) 9808 1822 and ask for a list of Occupational Therapists trained in driver rehabilitation to locate the nearest one in your area.

For Further Information:

- Information for this fact sheet is derived from: "Assessing Fitness to Drive: Austroads Guidelines for Health Professionals and their Legal Obligations", Austroads Inc 1998.
- The RTA, in conjunction with the Alzheimer's Association of NSW, has produced a pamphlet: "Dementia: Driving and Dementia", available from any motor registry.
- RTA Customer Service Centre can be contacted on: 13 22 13.
- Coorabel Driver Assessment & Training Program: The Royal Rehabilitation Centre, 227 Morrison Road, RYDE NSW 2112. Telephone: (02) 9807 1144.
- The Driver Rehabilitation Program: Cumberland College of Health Sciences, University of Sydney, East Street, LIDCOMBE NSW 214. Telephone: (02) 9646 6444.

Acknowledgement:

We would like to acknowledge the assistance of Rob Hardy, Occupational Therapist, Cumberland College of Health Sciences, in helping prepare this fact sheet.