Assessing Fitness to Drive for Commercial and Private Vehicles

SUBMISSION

Bus Industry Confederation
moving people

11 June 2021

Bus Australia Network

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About the Bus Industry Confederation

The Bus Industry Confederation (BIC) is an organisation uniting bus and coach operators, bus and coach chassis suppliers and manufacturers, bus and coach body manufacturers and associated suppliers and professional services. Its vision is to enhance the sustainability and liveability of Australia's cities and regions by *moving people* using bus and coach transportation. We aim to do this by representing the collective interests of our Members and to assist them in promoting the safety, efficiency and effectiveness of bus and coach transport in Australia.

Our Moving People Objectives

Encourage investment in public transport infrastructure and services.

1. Promote policies and actions that are environmentally responsible.
2. Promote the development of a viable and improved bus and coach industry in Australia.
3. Foster and promote a viable Australian bus manufacturing industry.
4. Protect the business interests of operators, manufacturers and suppliers.
5. Promote public understanding of the contribution made by the bus and coach industry to Australia's economy, society and environment.
6. Ensure the accessibility and mobility needs of Australians are met, regardless of where they live or their circumstances.
7. Promote the use of public transport as a viable alternative to the car.
8. Coordinate and make more effective existing Federal, State and Local Government policies and programs that relate to passenger transport.
9. Ensure that buses and coaches operate safely and effectively.

About the Bus and Coach Industry

The bus and coach industry in Australia carry more than 1.5 billion urban public transport passengers per year and makes up 5 per cent of the total urban passenger task. The coach sector of the bus industry, comprising long distance, tourist and charter operators moves more than 1.5 million domestic travellers and makes up 8 per cent of the total non-urban passenger task. The school bus is the second most popular mode for travel to school after the car with about one quarter of all school children traveling to school by bus.

Our Industry, which includes bus operators, bus manufacturers and parts and service suppliers, employs more than 85,000 people nationally.

The *Bus Industry Confederation* (BIC) is the federal and peak body of the *Bus Australia Network* (BAN) comprising of the state associations of New South Wales, Victoria, Queensland, Tasmania, South Australia and Western Australia.

Document Purpose

The National Transport Commission is conducting a review of their draft guideline on **Assessing Fitness to Drive for Commercial and Private Vehicle Drivers (AFD).**

Primarily, the publication provides guidelines for medical and health professionals and licensing/transport authorities.

The publication does not provide any guideline for Employers who are predominantly reliant on the Employee to self-report. The Employer is also reliant on the health professional and the licensing authority to be accurate and timely in the provision of assessments or accreditation.

This submission provides:

a) responses to questions raised in the Interim Report (May 2021)

b) raises issues relating to chain of responsibility and flaws in the current system. An ongoing concern is for smaller to medium-sized operators, who are entirely reliant on a 'functioning' AFD system

c) raises state/territory specific operational issues currently being experienced by members of the Bus Australia Network.

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Submission due by 11 June 2021 and submissible to: 'Have your Say' – ntc.gov.au website.

Background

The AFD has 2 streams:

1. provide guidance to increase road safety by assisting health professionals assess the fitness of drivers, promote responsible behaviour, conduct medical examinations, and acknowledge legal restrictions upon conducting such medicals.
2. provide guidance to driver licensing authorities in making licensing decisions. With these aims in mind the publication:
   - outlines clear medical requirements for driver capability based on available evidence and expert medical opinion
   - clearly differentiates between national minimum standards (approved by the Infrastructure and Transport Ministers' Meeting) for drivers of commercial and private vehicles
   - provides general guidelines for managing patients with respect to their fitness to drive
   - outlines the legal obligations for health professionals, driver licensing authorities and drivers
   - provides a reporting template to guide reporting to the driver licensing authority if required
   - provides links to supporting and substantiating information.

The guideline provides a good background to those medical conditions that would impact drivers of vehicles as identified in the Interim Report.

The Interim Report (May 2021) replaces work undertaken by NTC in 2016 and only enhances processes in line with scientific and medical consensus on how to manage the process. The interim report is a medical and scientific approach to the assessment and reflects a need for professionals to understand a range of medical conditions and how they relate to assessing fitness.

Such medical conditions which are considered include: cardiovascular, diabetic, hearing loss and deafness, musculoskeletal, neurological, psychiatric, sleep disorders, vision, and eye disorders.

The Interim Report contains two main parts Part A – a general guidance to health professional and Part B – medical standards for specific health areas.

The Interim Report explains the proposed changes to the guideline - an update to the way in which state/territory authorities currently 'assess fitness to drive' and invites answer to questions.

Context

This submission is provided by the Bus Industry Confederation (BIC) in collaboration with the Bus Australia Network (BAN) and bus operator members. The BIC acknowledges that the responses provided in this submission are bus operation specific and may be determined by the NTC to be outside of the 'stated purpose' of the national guideline for Assessing Fitness to Drive (AFD).

The BIC also acknowledges that the responses provided in this document may have particular relevance to the current work being undertaken by the NTC in its review of Heavy Vehicle National Law (HVNL). The mandate of the NTC in its review of HVNL is to "[develop] options to suitably address and manage heavy vehicle driver health and safety".

Of the 3,000-plus bus and coach operations around Australia,[1] the BIC estimates more than 60,000 workers undertake the task of driving a bus or coach to transport Australians safely, travelling over 1 billion kilometres per year[2] or 21 billion passenger kilometres.[3]
Bus and coach transit is delivered by drivers with an average age of 56 years[4] with the majority over 60 years of age. The age groups are predominantly male and as anecdotal evidence suggests, have much greater susceptibility to medical issues which may affect their driving either from a personal safety aspect or from the safety of their passengers.

The BIC is strongly supportive of ensuring a healthy fit-to-drive workforce that optimizes the safe operation of the vehicle and ensures the well-being of passengers. As part of this 'quality assurance' to the passenger, the BIC supports that the decision of a driver being fit-to-drive needs to be assessed, without bias, by well-informed medical practitioners. However, the 'system' (driver-medical practitioner-license authority) becomes somewhat fragmented and difficult to use for the Employer who has an ongoing concern and duty of care for their Employees.

In a regional town setting, the 'system' is often not practical to apply - particularly when a driver, for example, may require specialised assessments which is typically not readily available in regional towns. The costs, productivity liabilities and time deficits are significant impacts for operators in regional and rural towns. Smaller sized operations (usually regional settings) often do not have the resources of a dedicated Human Resources department.

In order for the standards in the guideline to effectively work through the whole chain of responsibility, the Employer must have access to information from drivers, the health professionals and the licensing authorities.

The BIC appreciates the opportunity to provide a response to the National Transport Commission (NTC).

[1] Who moves what where: Freight and passenger transport in Australia. Melbourne, Australia (2016): National Transport Commission.
[2] 2020 Motor vehicle census. In: *Australian Bureau of Statistics (ed.).* Canberra, Australia.
[3] Yearbook 2017: Australian infrastructure statistics. In: *Bureau of Infrastructure Transport and Regional Economics (ed.).* Canberra, Australia: Department of Infrastructure and Regional Development.
[4] 2017 Labour force survey. In: *Australian Bureau of Statistics (ed.).* Canberra, Australia.

Scope Limitation

The stated goal of the national guideline for Assessing Fitness to Drive (AFD) is to create national consistency of medical standards for driver licensing across Australia. The guideline aims to provide national standards to:

a) assist health professionals assess the fitness of drivers, promote responsible behaviour, conduct medical examinations, and acknowledge legal restrictions upon conducting such medicals; and

b) provide guidance to driver licensing authorities in making licensing decisions.

The Interim Report (May 2021) identifies a "common lack of consistency in the administration and interpretation of the guidelines".

Summary of issues with the current AFD system

The BIC is cognizant of the stated limitations of the recommended standards outlined in the guideline however the below factors contribute to the current failures and oversights of the system (particularly relating to the Employer):

a) the AFD is broad in its scope to cover both commercial and private passenger vehicle drivers and does not distinguish between commercial sectors (ie. consideration given to the inherent nature of the driving task, for example, the environment of a bus is entirely different to a truck)

b) no consideration is given to the roles and responsibilities of the Employer as part of the ongoing health and safety of drivers

c) compromises the chain of responsibility – where does the responsibility lie, for example in the event of passenger fatalities. Do the AFD recommended standards become part of this chain of responsibility?

d) the AFD does not consider existing disparity (variances) of (pre-employment) licence accreditation schemes or minimum safety standards adopted across the states/territories

e) the AFD recommends adoption of standards that does not include the Employer. The 'agreement' is between the health professionals, the licensing authorities and the driver, none of which the Employer (in the course of pre-employment or during the course of an investigation), may have reliable or detailed information or access as an ongoing concern in their duty of care to their Employees.

The demographic of a bus driver

Bus and coach drivers constitute the frontline staff of the bus and coach industry and are valuable assets, being greater in scale than all other roles in the industry combined. Based on industry surveys and ABS data, the BIC estimates there are more than 60,000 workers undertaking the task of driving a bus or coach. Drivers make up approximately 80% of the entire labour force in a bus and coach operation, noting that drivers can often take on other roles in an organisation.

According to the ABS Labour Force Survey (2017), bus and coach drivers are aged 56 years on average, as compared to 40 years for the Australian workforce as a whole. Further, there is some level of bimodality in the age profile, with a greater number than average aged between 45-54 years and also above 60. One of the major challenges for the industry is the high proportion (82%) above 45, and the relative difficulty in recruiting the younger generation, with just 7% of the workforce less than 35 years old.

This submission provides examples of circumstances where age and health played a significant causation role in vehicle accidents causing injury to the drivers and/or the passengers.

The BIC's industrial relations arm, the Australian Public Transportation Industrial Association (APTIA), commissioned a bus and coach driver health and wellbeing survey in 2013. The results of that survey indicated that:

- drivers have a poor understanding of weight management and there is subsequently or even correlated, that poor dietary choices are indicated for many workers. A poor diet results in increased weight, and increased risk of disease and illness
- there is an ageing, and predominantly male workforce which presents a number of health issues and risks. The Australian population is becoming an ageing population and industries such as public transport are appealing to the older workforce. It is therefore imperative that companies are proactive in managing their older workforce
- individuals who are in poor physical condition and of an older age are more prone to injuries occurring in the workplace or in the community. This may result in lost time at work resulting in increased stressors for a company.

Appendix A provides an outline of the physical and mental demands of driving a bus.

Experiences with the current processes for AFD

The detail in this section is reliably informed by the experiences of bus operators from NSW, Victoria, SA and Tasmania. The issues with the current process mainly apply *after* the licensing authority has issued the relevant driver accreditation (DA), **although that is not to say a medical issue was not present at the time of pre-employment**.

The Employers ability to provide appropriate *ongoing duty of care* to the Employee is often constrained (or not allowed) in the AFD process and therefore works against the intensions of the AFD guideline, the desired outcome of which is to ensure that drivers are fit-to-drive and passengers remain safe.

The BIC strongly supports the standards put forward by the NTC. However, the BIC is of the view that the guideline unfortunately fails on the process as it does not directly involve the Employer.

Accreditation issues

1. Minimum accredited safety standards vary significantly between the jurisdictions which is a contributing influence on how the AFD guideline is interpreted and applied. The BIC has long advocated for a national minimum safety accreditation standard which would be a significant factor in ensuring consistent understanding and administration of the AFD standards by driver licensing authorities.
2. There is no AFD accreditation (registration) scheme or measurable accountability for health professionals in executing health assessments. This leads to the following commonly known operational issues:
    a) a health professional, with no specialised knowledge, can sign-off on a driver as being fit-to-drive
    b) a driver can approach 1 or multiple health professionals to validate a medical assessment to support fit-to-drive
    c) where multiple health professionals are involved in an assessment, an assumption is often made that 'someone else' has attended to the appropriate paperwork to adequately inform the licensing authority or inform the driver (who it is assumed will also inform their Employer)
    d) it is not uncommon for an Employer, in ensuring duty of care obligations to an Employee, to encounter inaccurate or flawed assessments and unintended bias (such as that which might be given by a generational family-friendly GP).

3. There is no reliable and auditable minimum standard for training of health/medical professionals or a formal channel to easily report to the medical sector on emerging health or environmental conditions/hazards for drivers (as an example: the current growing evidence of dehydration in "older" bus drivers seemingly occurring for those who regularly consume prescribed medications or male drivers suffering from a dysfunctional prostate).

4. Some jurisdictions, in interpreting the guideline, are increasingly adopting a quasi-health professional role in adopting protocols that appear to be prescriptive health directives.

Case Scenarios – Licensing practices

Alcohol and Substance Use Disorders

The guideline (p86) provide recommendations on the medical standards for licensing in relation to "alcohol or other substance use disorders". In relation to commercial drivers, the guideline states that a person is not fit to hold an unconditional licence if there is an "alcohol use disorder" or a "substance use disorder". A conditional licence may be considered by the driver licensing authority subject to periodic review, taking into account:-

> *"information provided by an appropriate specialist (such as an addiction medicine specialist or addiction psychiatrist)..."*

The terms "alcohol use disorder" and "substance use disorder" are not defined or explained in the guideline. This has led to different interpretations of the guideline by some driver licensing authorities.

In NSW, as in most other states, a bus operator is required to notify the driver licensing authority (Transport for NSW) of any test confirming the presence of alcohol or drugs in the urine or blood of a driver. On receipt of such notification and based on a new policy, TfNSW automatically suspends the employee's Driver Authority (accreditation) for 21 days (which the industry supports). TfNSW then requires the driver to see a GP and/or a specialist such as an addiction medicine specialist or addiction psychiatrist, before any consideration is given to lifting the suspension. This policy is applied irrespective of whether the driver has tested positive previously or if the positive test is a "one off" occurrence.

TfNSW has stated that its new policy is based on the Assessing Fitness to Drive Guideline citing:

> *"… a person is not fit to hold an unconditional commercial licence if they have an alcohol or other substance misuse disorder that is likely to impair safe driving…."*

It would appear that the driver licensing authority views a single positive drug or alcohol test as indicative of an "alcohol or substance use disorder" with all the consequent implications outlined in the guideline. A definition or explanation of the terms "alcohol use disorder" and "substance use disorder" would help to clarify this issue for driver licensing authorities, commercial operators and commercial drivers.

Anti-depressants and Fitness to Drive

The use of anti-depressants within the community is widespread, with approximately 1 in 8 Australians regularly taking an anti-depressant medication.[5]

[5] Whitely, M, et al, 2019, "1 in 8 (over 3 million) Australians are on antidepressants - Why is the Lucky Country so miserable?", *PsychWatch Australia*, 25 August 2019, last accessed online at: https://www.psychwatchaustralia.com/post/1-in-8-over-3-million-australians-are-on-antidepressants-why-is-the-lucky-country-so-miserable

While depression and anxiety conditions are briefly mentioned in the guideline, there is little specific information provided on the medications commonly prescribed for such conditions. The guideline simply recommends (p166) that the effects of prescribed medication should also be considered by the treating doctor in relation to driving safely.

This relative lack of guidance has resulted in some driver licensing authorities requesting bus drivers who have been prescribed 'common' anti-depressant medications to attend a specialist psychiatrist or psychologist to ensure the driver is fit to drive a public passenger vehicle.

Some simple explanation of commonly prescribed anti-depressant medications and their effect (if any) on fitness to drive would help to clarify this issue for driver licensing authorities, commercial operators and commercial drivers.

Constraints on the bus operator (the Employer)

1. In most instances the Employer is informed of a health or medical issue by:
    a. observation of the driver (and therefore action undertaken using internal management systems)
    b. an incident (often an on-road incident)
    c. the driver.

    There is substantial reliance on the driver to self-report without any mandatory requirement having to do so.
2. It is not uncommon for Employers to encounter a driver approved as fit-to-drive when the visible physical attributes of the approved driver indicate the potential for high risk to safety of themselves and passengers.
3. The Employer is not empowered to directly engage with medical practitioners even if an Employer identifies an at-risk driver.
4. Due to the largely preferential casual-tenure of much of the workforce, drivers can often 'job-hop' (ie. drive for more than 1 bus operator in any week). This means that often the Employer does not have regular visible contact with the driver and unable to make any reliable observations.
5. Some large-enterprise Employers have internal management systems that offer the Employer's preferred medical practitioner that enables fully functional assessments of an Employee. This practice only works for those drivers who accept these assessment policies.
6. There is a balance to be maintained that enables drivers to be recruited and retained whilst also attending to a driver's health issue. This should be achieved without unfairly 'penalising' the operator who may be faced with constantly having to find and employ replacement drivers.

    This is particularly true for regional areas where the need to recruit becomes increasingly necessary in certain cases (such as a driver requiring access to specialist practitioners often city located and frequently with extended consultation wait periods).

Case Scenarios – Employer and Driver

Case Study 1 – incident during employment

Background

On 1 July 2017, a privately owned bus operator (Company A) took over as the new contractor for existing public transport bus services. All previously employed bus drivers (of previous contractor – Company B) continued service with Company A at the commencement of the contract. Company A checked that all drivers previously employed by Company B who transferred over to Company A, held a current Driver Authority (DA) through the use of *MyRecords*.

In November 2019, Employee X became incapacitated on school route and lost control of the bus. As a result, a person standing on the kerb at the pedestrian crossing was struck and seriously injured. Several parked cars were also damaged by the bus colliding with them. There were no reported injuries from the Employee or passengers from the accident.

Employee X held a current DA (expiry 6/3/2020) and a Heavy Vehicle Driver Licence (HR) (expiry 14/8/2021). Both the DA and HR licence had been issued without conditions.

Employee X had not been subjected to a pre-employment medical by Company A. This was consistent practice with employees transferring from a government provider.

Employee X had medical assessments completed for his initial application for a DA, then every three years up to the age of 60 years and annually thereafter. There were no issues identified by the medical professionals, in these medical assessments that would preclude Employee X from holding a DA.

Issue

On 2 May 2019, Employee X suffered a non-ST elevation myocardial infarction (heart-attack). Employee X underwent a corrective medical procedure and commenced prescription medication.

Employee X was absent from work from 3 May 2019 to 3 June 2019 due to "suffering a medical condition". At the time of the accident, Employee X was 61 years old.

The treating cardiologist of Employee X cleared return to usual work as a commercial bus driver on 30 May 2019 with a plan to see Employee X again in six months.

On 30 May 2019, the licensing authority received notification from Employee X of his medical clearance with a review date in 6 months.

On 31 May 2019, licensing authority issued a letter to Employee X stating he was fit to continue to hold his current driver licence class with a review in November 2019. This was consistent with the cardiologist's planned follow up medical assessment.

Employee X returned to active service work on 3 June 2019.

The gaps for Company A

The medical assessment for fit-to-drive relies on open and honest disclosure by the Employee of any medical condition that may affect their ability to drive safely.

Following the Employee X's heart attack on 2nd May 2019, he was managed in accordance with the requirements in the AFTD Guidelines. Employee X remained off work for a minimum of four weeks. Employee X was provided a clearance from his medical specialist on 30 May 2019 and did not return to work until 3 June 2019.

The "medical condition" was not disclosed to Company A by Employee X nor the licensing authority.

Although Employee X followed the right procedures in order to keep his DA current, the lack of access by the Employer to specific issues of the "medical condition" compromised the Employer's ability to safe-guard the Employee from endangering himself and the lives of passengers.

Actions taken by Company A

After this particular incident, Company A reviewed internal procedures and systems in managing fitness for work and return to work guidelines.

- Promote prompt driver reporting of medical conditions as an operational priority.
- Return-to-work interview with drivers after an absence greater than three days.
- Implement programs using supporting information that provides bus drivers with the capacity to manage known crash risks associated with medical conditions.
- Implement systems (policies and procedures) to enable bus drivers stop the bus and report to the Operations Control Centre (or equivalent) when they are experiencing symptoms of medical conditions.
- Work closely with a preferred medical practitioner who has a better understanding of industry and also appreciates the responsibility and accountability of a person holding a DA.

Case Study 2 – incident during employment

Employee X had been employed with the company for over 10 years. Employee X was considered to be a good employee. However, Employee X started to demonstrate what appeared to be symptoms that could be reasonably attributed to a form of mental unwellness. Company A identified symptoms such as a sudden lack of care in appearance, absenteeism and receiving passenger complaints.

Due to the established relationship between the Employee X and the Employer, Employee X was very amenable and willing to discuss the issues of his work. Company A was informed by Employee X of his diagnosis of bipolar disorder and other mental health issues as a young adult. Fortunately, over his 10 'good' years of work with Company A, the illnesses had been well managed by Employee X and his medical practitioner. However due to family stress, Employee X experienced a bipolar episode that required treatment and unfortunately resulted in the termination of employment.

Employee X had consented for Company A to discuss his health issues with his medical practitioner and to take leave pending the results of the investigation. The medical practitioner, even with consent from Employee X was not forthcoming in discussing health issues of Employee X causing significant delay to the investigation. The medical practitioner eventually, after many weeks, conceded to working with Company A.

In this case – IF the Company did not have eventual access to medical records, typically the bus operator would (reasonably) seek to engage fit for work assessments from an alternative health professional. As commonly encountered in cases such as these, the alternative health professional may not have access to the medical history of the Employee, thereby potentially compromising accuracy on any assessments of the Employee being found fit to drive.

Case Study 3 – incident during employment

Employee X became unconscious while operating a bus in service, resulting in the bus colliding with a brick fence in the front of a home with fortunately no injuries. Employee X was treated at the hospital, and as there is no requirement for the hospital to provide information to the Employer, Company A had to rely on the driver to self-report.

Employee X reported that he was advised by the hospital to rest at home for a couple of weeks before return to work. Company A informed Employee X that the company was required to a) understand what caused the medical incident and b) obtain clearance from a medical practitioner that Employee X was fit to drive. Employee X refused to provide this information and presumably had no intention of informing the relevant licensing authority his change in health status.

The bus crash incident resulted in a formal investigation and in due course, the licensing authority became aware of the medical incident causing the crash. The formal investigation found Employee X had a brain tumour that may result in further back outs and ultimately death, culminating in Employee X driver authority and heavy vehicle licence being cancelled.

In cases where multiple medical practitioners and/or emergency departments at hospital are involved, incidents are at high risk of going undetected as there is no adopted standard of practice as to who should be reporting the incident.

Case Study 4 – pre-employment procedures

Background – pre-employments

Company A aims to provide a fair and transparent recruitment process, to recruit the right people into the right jobs. It is also imperative that recruitment and selection decisions should be made based on the Applicant's merit with all stages of the process designed to ensure compliance with EEO and anti-discrimination legislation.

A hiring manager must ensure that all appropriate clearances and pre-employment checks/criteria have been submitted or met prior to any offer (verbal or written) of employment being made, including but not limited to:

- Security checks, including criminal history and working with children
- medicals, including alcohol and other drug testing
- relevant licences
- technical qualifications.

An Applicant is responsible for disclosing all information requested as part of the application process, including previous employment history with the Company.
An Applicant must also accurately and honestly complete all the relevant forms and paperwork (which includes disclosure of know medical conditions). Unfortunately, common experience points to this not being the case in many instances.

Issue

Applicant A successfully completed the Driver Authority (DA) course on 19 February 2021. The DA medical was completed by the applicants regular GP. The medical was submitted to the licensing authority and the applicant was deemed fit to hold a DA on 25 February 2021 (effective for 3 years).

Applicant A applied for employment with Company A. After a telephone pre-screen, interview, written assessment and driver evaluation the applicant progressed to a pre-employment medical conducted by Company A. On 4 March 2021, Applicant A was deemed fit having completed a routine pre-employment medical (including drug and alcohol screening).

The Applicant (Employee X) commenced service with Company A on 22 March 2021.

- 8 April 2021: Supervisor had discussions regarding excessive absences and late employed.
- 7 May 2021: Supervisor conducted a welfare on Driver after noticing a change in behaviour. Employee X disclosed to Company A that her GP had given her sleeping tablets (unknown) and Anti-depressants (Endep) which may have caused her change in behaviour.
- 28 May 2021: Employee X called Company A in the very early hours of the morning with slurred speech and not entirely coherent advising non-attendance to her next shift.
- 31 May 2021: Supervisor spoke to Employee X regarding her fitness for work and the Driver stated that she was being treated for depression, anxiety and other personal stress.
- During a meeting to discuss fitness for duty Employee X was unable to adequately convey (or

comprehend) which the treating Doctor prescribed certain medicines. Employee X stated that:

- Employee X was on the prescribed medication when the DA was issued.
- Employee X claimed disclosure of the medical condition and medication during the pre-employment medical conducted by Company A (contrary to the Company records that no such information was offered during the application process or during the pre-employment medical).

The medical assessment for bus drivers relies upon open and honest disclosure by the Employee of medical condition/s or prescribed medication/s that may affect their ability to drive safely.

In this case, the "medical condition" was not disclosed by Employee X during the application of her current DA.

There is no requirement to undergo interim medical assessments to maintain a DA during the 3-year period of a DA being valid. As an Employee holds the DA for 3 years, once employed, a Company relies on the Employee to self-report and typically relies on the nominated treating doctor of the Employee to make an accurate ongoing assessment.

Case Study 5 – pre-employment procedures

Applicant A successfully completes the DA course. The DA medical was completed by the applicants regular GP. The medical was submitted to the licensing authority and the applicant was deemed fit to drive on 5 May 2020 without restrictions until next medical assessment falling due in 3 years (2023).

Applicant A applied for employment with Company A. After a telephone pre-screen, interview, written assessment and driver evaluation, the applicant progressed to a pre-employment medical conducted by Company A.

Applicant A did not accurately and honestly report, verbally or written on required company forms (including disclosure of known medical conditions). Applicant A also did not disclose any prior illness or injury to Company A prior to the pre-employment medical being conducted.

Issue

During the pre-employment medical, it was found that Applicant A had a hole in the heart and a stroke one year prior to her job application. Whilst Applicant A had minimal residual symptoms and the hole had been closed, she had a mitral valve prolapse and Wolff-Parkinson-White (WPW) syndrome. At the time of application, Applicant A was under the care of a cardiologist. Medical information suggested that it was likely that heart surgery and a possible pacemaker would be required at some point in the future.

This important medical information relevant to fit-to-drive was only discovered through the pre-employment protocols of the Company.

This matter presents significant risk for smaller organisations who may not conduct pre-employment medicals over and above the requirement for an Employee to hold a DA.

Case Study 7 – Findings Report Extract from OTSI[6]

> *The bus driver is the last line of defence. Any effects of ill health and incapacitation of the bus driver can and will directly affect the safety of people on and around the bus.*
>
> *The different approaches other transport industries have taken to manage the risk of ill health and incapacitation of safety critical workers.*
>
> *In both the aviation industry and rail industry, workers in safety critical roles require a physical medical examination that is relevant to the safety criticality of their role, in addition to a medical assessment. In both cases, the medical examination provides the medical professional a greater opportunity to identify any potential health precursors in an individual that might make them a greater risk for incapacitation.*
>
> *The medical assessment for bus drivers is heavily reliant on the bus driver openly disclosing any medical conditions that could affect their ability to drive safely.*
>
> *Although the bus driver is in a role that is as equally safety critical to that of a commercial pilot or train driver, the bus driver is not always subjected to a physical medical examination as a prerequisite for approval of their Driver's Authority. A bus driver may have to undertake a physical medical examination but only if the information that has been disclosed on the medical assessment leads the medical professional to conduct one.*

Case Study 8 – Workers Compensation & conditions unknown or disclosed.

Drivers affected by medication, hazardous substances, alcohol, illicit drug use, stress or fatigue as well as illness (mental and physical) and disability, whether work or non-work related, may present a safety risk to themselves, passengers, visitors or their work colleagues.

Employers have a duty of care to ensure that a driver whose capacity to work safely may be impaired, is appropriately assessed taking into account all relevant circumstances such as the inherent requirements of their job, the nature of the tasks performed and any relevant licensing requirements.

After sustaining an injury or illness the injured driver may need to seek medical attention. This involves visiting a treating medical practitioner, i.e. general practitioner or doctor who will assess and treat the injured driver. The treating medical practitioner recommends treatment, the need for any diagnostic investigations and the injured driver's capacity for work (which may include driving reduced hours).

There is limited visibility for employers or practitioners to manage this risk.

The responsibility of reporting falls to the Employee to manage a risk that may ultimately affect their employment/livelihood.

The same issue arises when an Employee who is on sick leave and fails to disclose a medical condition.

[6] Investigation Reference 19/0013 File 04818, 5 November 2019, *Office of Transport and Safety Investigations*, New South Wales

Appendix A - physical and mental demands of driving a bus

There are a number of physical, cognitive and psychological impacts (or demands) placed on the human body when driving heavy vehicles. Alarmingly, there is growing evidence of dehydration in "older" bus drivers, seemingly occurring for those who regularly consume prescribed medications or male drivers suffering from a dysfunctional prostate.

Physical Demands

1. Constant sitting.
3. Constant bi-lateral, upper limb movement.
4. Frequent uni-lateral movement.
5. Frequent rotation of the neck.
6. Constant plantar flexion and dorsiflexion of the right foot.
7. Control Precision — The ability to quickly and repeatedly adjust the controls of a machine or a vehicle to exact positions.
8. Multi-limb Coordination — The ability to coordinate two or more limbs (for example, two arms, two legs, or one leg and one arm) whilst sitting or standing.
9. Reaction Time — The ability to quickly respond (with the hand, finger, or foot) to a signal (sound, light, picture) when it appears.

Cognitive Demands

1. Far Vision — The ability to see details at a distance.
10. Depth Perception — The ability to judge which of several objects is closer or farther away from you, or to judge the distance between you and an object.
11. Near Vision — The ability to see details at close range (within a few feet of the observer).
12. Problem Sensitivity — The ability to tell when something is wrong or is likely to go wrong. It does not involve solving the problem, only recognizing there is a problem. Problem sensitivity also includes the ability to recognise any safety concerns or hazards.
13. Spatial Orientation — The ability to know your location in relation to the environment or to know where other objects are in relation to you.
14. Oral Comprehension — The ability to listen to and understand information and ideas presented through spoken words and sentences.
15. Reaction Time — The ability to quickly respond (with the hand, finger, or foot) to a signal (sound, light, picture) when it appears.

Psychological Demands

1. Constant interaction with customers.
16. Stressors associated with negotiating traffic hazards.
17. Maintaining timeliness of bus routes.
18. Break times.

Stressors include: Poor cabin ergonomics, rotating shift patterns, inflexible running times, increase in traffic, and violent or demanding passengers.