

Ms Mikaela Meggetto  
Coroners Court of Victoria  
65 Kavanagh Street  
**SOUTHBANK VIC 3006**

By email: [cpuresponses@coronerscourt.vic.gov.au](mailto:cpuresponses@coronerscourt.vic.gov.au)

**Access and Operations**  
Level 10, 1 Spring Street  
Melbourne, Victoria 3000

Fri, 24 November 2017

Dear Ms Meggetto

### **INVESTIGATION INTO THE DEATH OF PAMELA ELSDON COR 2016 005554**

Thank you for your letter dated 20 September 2017 regarding Coroner Jamieson's findings and recommendation dated 7 September 2017. Firstly, VicRoads extends our sincere condolences to Mrs Elsdon's family and friends.

Her Honour recommended that consideration be given to adopting a framework requiring mandatory reporting to VicRoads when a medical practitioner forms an opinion that a person with a permanent or long term injury or illness is or may not be medically fit to drive.

#### **Preliminary matter - Responsibility for Regulation and Policy**

In April 2017, Transport for Victoria (TfV) became responsible for road safety policy and regulation, with operational responsibilities remaining with VicRoads. Accordingly, this response has been prepared in consultation with TfV.

#### **Response**

There are unresolved issues with the Coroner's recommendation that need to be addressed.

##### *Mandatory Reporting Considerations*

- (1) TfV and VicRoads are concerned that mandatory reporting has the potential to introduce a disincentive to seeking treatment if patients feel they cannot consult with doctors without fear of being reported to VicRoads. This could adversely affect wider community health outcomes with impacts beyond road safety. Such a requirement would also negatively impact on the doctor-patient relationship.
- (2) As identified by the coroner, only two Australian jurisdictions (South Australia and Northern Territory) have mandatory medical reporting requirements.
- (3) Current limitations in data availability impact the extent to which mandatory medical reporting can be evaluated in South Australia and the Northern Territory.
- (4) However, we know that mandatory medical reporting requirements are not without risks and limitations. Recent research conducted in South Australia with sleep physicians suggests that it is widely disliked by doctors, is inconsistently applied, poses occupational health and safety risks and is potentially ineffective. Doctors reported abuse from patients (80%), and suspecting patients of both doctor shopping (71%) and of withholding information fearing loss of licence (94%). A large patient based survey investigating the effectiveness of mandatory reporting of drivers, also

conducted in South Australia, reported that 9% of respondents would avoid diagnosis, doctor shop or lie to avoid diagnosis. Avoiding diagnosis could impact on effective treatment interventions impacting on patient long-term health, productivity and functional abilities.

- (5) Limitations of mandatory medical reporting were also reflected in a recent Victorian Institute of Forensic Medicine (VIFM) Clinical Communiqué fitness to drive editorial...'[mandatory reporting laws..] have been criticized on the grounds that they involve doctors inappropriately in the policing process, lead to dishonesty and mistrust of their doctors by patients, and only bring a small number of drivers to the attention of the authorities, many of whom could already have become known in other ways". The VIFM circular reinforces regular patient assessment.... "Whether a patient is fit to drive is a clinical question, which should be posed every time we see a patient, whether in an acute hospital, outpatient, or general practice setting".
- (6) It should also be noted that doctors around Australia have an existing ethical duty to notify licensing authorities if they become aware that a patient has a serious impairment which might impact on safe driving ability. This duty is clearly articulated in the 2016 Austroads/National Transport Commission "Assessing Fitness to Drive Guidelines" (hereafter referred to as the AFTD guidelines).

*Input from potential duty holders*

- (7) The potential class of duty holders (medical practitioners) may welcome an opportunity to respond to such a recommendation, particularly given the potential adverse impacts, such as professional regulator censure or civil suits, even where no penalty is attached to breach of such a duty. The organisations representing medical practitioners do not appear to have been invited to provide input to this inquiry, nor to respond directly to the recommendation.

*Regulatory framework pre-requisites to adopting mandatory medical reporting*

- (8) TfV and VicRoads consider there are opportunities to improve communications about, and both knowledge and skills related to, the existing self and community referral system into VicRoads Medical Review. This would serve to increase voluntary compliance with the existing system and should be utilised before consideration of a mandatory reporting model which should be the last response intervention.
- (9) To this end, VicRoads has allocated resources to a number of new initiatives which will be delivered over the next twelve months.

VicRoads will write to the Australian Health Professional Registration Agency and peak medical bodies (including the Australian Medical Association and Royal Australian College of General Practitioners) for the purpose of:

- (a) sharing the Coroner's findings;
- (b) seeking their assistance with understanding barriers/facilitators to compliance with the current reporting system; and
- (c) obtaining access to registrants/members to distribute communications and fitness to drive education materials.

Over the next 12 months, VicRoads will undertake the following in consultation with the Coroner's Prevention Unit (as relevant):

- (d) develop and implement a medical practitioner communication strategy,
  - (e) targeted distribution of new "fitness to drive" medical and health practitioner fact sheets and other materials,
  - (f) formally seek the views of medical practitioners and their representative bodies regarding the potential public health impacts and consequences of mandatory medical reporting related to driving,
  - (g) support disability advocacy groups to deliver fitness to drive education to their members and the general public, and
  - (h) improve communication resources for older drivers and their families and friends related to fitness to drive.
- (10) VicRoads and TfV will report back to the Coroner regarding these activities and their outcomes by 1 December 2018.

If you require any further information please don't hesitate to contact Ms Robyn Seymour, Director, Road User and Vehicle Access via phone: 9854 2550 or email: [robyn.seymour@roads.vic.gov.au](mailto:robyn.seymour@roads.vic.gov.au)

Yours sincerely



**ANITA CURNOW**  
**EXECUTIVE DIRECTOR ACCESS AND OPERATIONS**

