

Reporting a Patient's Medical Condition to the DMV
Answers to Frequently Asked Questions
Prepared by Laurie Cohen, JD, Partner, Nixon Peabody

The New York State Department of Motor Vehicles (“DMV”) may suspend or place restrictions upon an individual’s driver license or learner permit if it has reason to believe the individual has a medical condition that may interfere with his or her ability to safely operate a motor vehicle. To that end, the DMV solicits reports by individuals, including police officers, licensed physicians, and others, of individuals with medical conditions that may affect his or her driving.¹ Before making such a report, you should review this guidance to ensure that doing so does not violate your patient’s privacy rights, including those pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

Q: Do I have a duty to report to the DMV when I have a patient whose medical condition could affect his or her driving?

A: No. In New York State, a physician is not required to report to the DMV any patient’s medical condition and should not do so in the absence of the patient’s written consent or unless otherwise permitted or compelled to do so, for example, pursuant to a court order.²

Q: Am I permitted to make a report to the DMV if I have a patient whose medical condition could affect his or her driving?

A: It depends. If your patient consents in writing, you may disclose his or her protected health information. This circumstance could arise if your patient is involved in a motor vehicle accident, after which time he or she is asked to supply medical documentation to demonstrate his or her fitness to drive. Without your patient’s written consent, and in the absence of one or more circumstances for which disclosure without patient consent is expressly permitted,³ you may not disclose his or her protected health information.

Q: What form do I use to report a patient’s medical condition?

A: The DMV has two different forms on which a physician may report a driver’s condition:

1. Form DS-6 (Physician’s Reporting Form) (available at <https://dmv.ny.gov/forms/ds6.pdf>): This form is used to report a patient’s condition that may impair his or her ability to safely drive and request review by the DMV’s Medical Review Unit. Because completion of this form requires the disclosure of protected health information, you should not submit this form without your patient’s written consent.

¹ See, e.g., <https://dmv.ny.gov/driver-license/report-medical-condition>. See also, <https://dmv.ny.gov/older-driver/tips-medical-professionals>.

² For a full list of instances where disclosure is permissible in the absence of the patient’s written authorization, see 45 C.F.R. § 164.512.

³ See fn. 2.

2. Form MV-80U.1 (Physician's Statement for Medical Review Unit) (available at <https://dmv.ny.gov/forms/mv80u1.pdf>): This form is used when a patient, whose license was previously administratively suspended because of a medical condition, wishes to have the DMV lift the suspension. Completion of this form may also be requested by the DMV after a driver discloses that he or she is being treated, or taking medication, for any condition that could cause unconsciousness or unawareness (for example, convulsive disorder, epilepsy, fainting or dizzy spells, or certain heart conditions). Because completion of this form requires the disclosure of protected health information, you should not submit this form without your patient's written consent.

3. Form MV-80 (Physician's Statement) (available at <https://dmv.ny.gov/forms/mv80.pdf>): After the DMV is notified that a driver had, or is currently being treated for, a medical condition that may interfere with his or her ability to safely drive, it may request additional information about the driver's condition. This form is used to report on conditions other than those that are known to cause unconsciousness or unawareness (details of these conditions should be reported on Form MV-80U.1). Because completion of this form requires the disclosure of protected health information, you should not submit this form without your patient's written consent.

Q: Do I have any obligations when my patient has a medical condition which could impair his or her ability to safely operate a motor vehicle?

A: Yes. You must thoroughly counsel your patient concerning his or her medical condition, including the potential impairment of his or her driving. If warranted, you should counsel your patient against driving unless and until such condition no longer presents concerns related to your patient's ability to safely operate a motor vehicle. After doing so, you should document your counsel as soon as practicable. Doing so may protect you should your patient not heed your warning, and injure himself or herself, or others. Recently, the New York State Court of Appeals expanded the duty of care that physicians owe to third parties. As such, it is critical that you fully counsel your patient (and contemporaneously document this counsel) as a means to reduce your liability should your patient or others sustain injuries while your patient drove under the known impairment.⁴

⁴ For more information on this expanded duty of care, see http://www.nixonpeabody.com/NY_court_expands_medical_providers_duty_of_care.