



9 September 2024

Committee Secretariat
Transport and Infrastructure Committee
Parliament Buildings
WELLINGTON

By email: ti@parliament.govt.nz

Tēnā koe

Submission - Land Transport (Drug Driving) Amendment Bill

Thank you for the opportunity to provide a submission on the Draft Land Transport (Drug Driving) Amendment Bill to enable the rollout of random roadside oral fluid screening tests, to better detect and deter drug-impaired drivers.

About The Royal New Zealand College of General Practitioners (the College)

The College is the largest medical college in New Zealand. Our membership of over 5,800 general practitioners and rural hospital doctors makes up 40 percent of New Zealand's specialist medical workforce. The Medical Council of New Zealand accredits the College to deliver vocational training to the specialist General Practitioner and Rural Hospital Doctor workforce. Our kaupapa aspires to improve equity by upholding principles of Te Tiriti o Waitangi and supporting members to be culturally safe and competent through the General Practice Education Programme (GPEP), and the Division of Rural Hospital Medicine Training Programme (DRHMTP).

There are 1,077 general practices (including rural and teaching practices) in the College's Practice Quality Programme¹. Certification against the College's Foundation Standard shows a commitment by practice teams to achieving legislative and regulatory requirements and delivering equitable care to improve patient outcomes.

Introduction

The Land Transport (Drug Driving) Amendment Act 2022 will introduce a random roadside oral fluid testing regime and enable police officers to test drivers' oral fluid for the presence of the highest-risk illicit and prescription drugs that impair driving. However, the College is concerned that this will unfairly penalise patients on prescription medications, leading to significant negative consequences.

Our submission

The Bill confuses impairment from drug driving with the presence of prescription medications. There is a high likelihood that random roadside oral fluid testing will criminalise patients who are not impaired but have medications in their system.

Thresholds for prescribed medications

Many patients on stable doses of medications are not impaired. Data from the Ministry of Health shows that in 2019, 603,816 people were prescribed medications included in Schedule 5 of the Act.² Saliva testing will not detect all medications that can impair driving, and more work is needed to align tested substances with those that carry driving risk.

The advice on limits is unclear. For instance, the table in Section 35 Schedule 1 does not provide enough information for GPs to assess impairment. The Independent Expert Panel on Drug Driving noted that setting thresholds is complex due to varying doses and methods of administration.

Saliva testing will not detect all prescribed medications that can potentially impair driving. The New Zealand Transport Authority | Waka Kotahi guidance on drug impaired driving, lists several additional types of medications including antidepressants, heart medications, and antihistamines.³ We recommend that more work is required to provide guidance on the substances that carry risk and prescribed medications tested, and how to understand if impairment is present before penalties are imposed.

Tensions – setting thresholds – 57A, 57B, 57C^a

The advice on limits is unclear. For instance, the table in Section 35 Schedule 1⁴ does not provide enough information for GPs to assess impairment. The Independent Expert Panel on Drug Driving noted that setting thresholds is complex due to varying doses and methods of administration, for example, the type of medication and individual responses to treatment, and which are more likely to impair cognitive function, or unlikely to cause impairment.⁵

The Final Report of the Independent Expert Panel on Drug Driving also noted that obtaining consensus is difficult as the issues are patient specific and better guidance is needed. Recommending limits for determining thresholds for drugs is complex due to the wide range of doses that may be prescribed and the variety of methods of administration. Table 32 outlines Statutory limits for opioids in the UK, Norway and Denmark compared with limits proposed in its report⁶.

Table 32

Drug	Limits proposed in this report Ng/ml		Links in other jurisdictions Ng/ml		
	Criminal limit	Threshold limit	UK	Norway	Denmark
Buprenorphine	1	1	x	0.9	0.53
Codeine	200	50	x	9	x
Dihydrocodeine	200	50	x	x	x
Fentanyl	0.5	0.5	x	0.34	x
Methadone	200	50	500	25	53
Morphine	20	10	80	61	10
Oxycodone	50	20	x	16	x
Tramadol	250	100	x	53	x
X – No limit set					

The recommended criminal limit and threshold limit for each of the opioids is based on the concentrations expected in the blood following ingestion of the recommended doses, knowledge of the pharmacodynamic properties of the drug, doses that are known to cause driving impairment, the concentrations detected in NZ impaired drivers and limits set in overseas jurisdictions.

Unintended consequences for patients

There is poor evidence that roadside testing alone will deter drug driving. A comprehensive public education campaign is needed to highlight the dangers of drug driving and ensure patients are informed about when it is safe to drive.⁷

^a Land Transport (Drug Driving) Amendment Bill. Part 2, Amendments to Part 6 (Driving offences involving drink or drugs, and penalties and procedures), Subpart 1 – Amendments to offences and penalties – Sections 57A, 57B, 57C

There may be unintended consequences of the Bill for those on prescribed medications who may not be impaired but produced a positive result when tested for drug driving. For example, if a low dose medication, such as 1 zopiclone tablet is taken each night to assist sleep, it would be over the threshold in the evening but is unlikely to impair driving the following day, however, it would still be present in their system if drug tested.

The impact of including prescribed criminalising patients on prescribed medications, could potentially damage a GPs relationship with vulnerable patients and their whānau due to the risk of litigation.

Recommendations

1. First, increase medication awareness and support

The College recommends a campaign to increase awareness of driving while impaired by medication. NZTA research found that 25% of prescriptions can impair driving, but 65% of drivers were unaware it is illegal to drive when impaired by medication. 51% of drivers did not recall being warned about potential impairment.

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2. Harm reduction

The College supports the Bill's harm reduction intentions and recommends integrating the Ministry of Health's advice to support a health approach to drug driving. This should address the disproportionate impacts on Māori.¹⁰

3. Equity

The proposed testing framework lacks reliable scientific evidence correlating substance presence with impairment. Criminalizing patients on prescribed medications will exacerbate existing inequities, particularly for Māori.

- a. A punitive-focused approach to the system is likely to have a negative impact on help-seeking behaviour for people who need health interventions for the abuse of illicit substances.
- b. The cumbersome nature of the testing framework means that those selected for testing will be up to individual officer discretion.
- b. A positive result may trigger a vehicle search under the Misuse of Drugs Act.
- c. Police discretion to investigate and / or prosecute in other areas is statistically exercised disproportionately against Māori and Pasifika peoples.

Conclusion

We urge the government to reconsider the Amendment Bill to avoid unfairly penalising patients and to focus on actual impairment rather than the presence of medication on its own. Our submission recommends either excluding prescription medications from the testing regime or establishing clear thresholds that distinguish between impairment and the presence of medication. The reasons for this are outlined in our submission and relate to:

- **Exemptions for Prescription Medicines:** Introduce provisions that exempt patients with valid prescriptions from penalties if they are not impaired while driving.
- **Unintended Consequences:** The Bill may unfairly penalise patients taking prescription medications, such as opioids or sleep aids, which could still be detected in their system without impairing their driving.
- **Awareness Campaign:** A campaign is needed to educate the public about the risks of driving while impaired by medications, as many drivers are unaware of these dangers.
- **Equity Concerns:** The testing framework may disproportionately affect Māori and Pasifika peoples and lacks reliable scientific evidence correlating substance presence with impairment.
- **Harm Reduction:** The Bill's punitive approach does not align with its harm reduction intentions and lacks educational measures to reduce drug driving.

^b Anaesthetics, analgesics, antidepressants, anti-epilepsy, antipsychotics, anti-anxiety agents, sedatives and hypnotics.

We seek assurance that:

- People on medications listed in the Bill are appropriately assessed for impairment, rather than only for the presence of 'drugs' that affect driving.
- The Bill will recognise a GP's right to be protected in their role of exercising clinical judgment in prescribing.
- Drug driving assessment guidelines are developed to inform levels of impairment and support the police in implementing future regulations.

The College is available to provide advice on these matters and will speak to the submission if further clarification is sought.

If you require further information, please contact Maureen Gillon, Manager Policy, Advocacy, Insights – Maureen.Gillon@rnzcgp.org.nz.

Nāku noa, nā



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References

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- ⁶ Ministry of Transport. Drug Driving Advisory Panel. Interim Report 3 Setting Statutory Limits for Blood Drug Concentrations Relating to Impaired Driving. 2020. Available at: <https://www.transport.govt.nz/assets/Uploads/Report/InterimReport3.pdf>
- ⁷ NZ Treasury. Enhanced drug driver testing. <https://www.treasury.govt.nz/sites/default/files/2020-04/ria-transport-edd-apr20.pdf>
- ⁸ NZ Transport Agency. For NZTA Substance Impaired Driving Project. Memo: Analysis of summary data from the pharmaceutical collection year to July 2014.
- ⁹ NZ Transport Agency. For NZTA Substance Impaired Driving Project. Memo: Baseline Driver Survey.
- ¹⁰ Ministry of Transport. Associate Minister of Transport. Updated Impact Statement. Coversheet: Enhanced drug driver testing. 2020.7.8. <https://www.transport.govt.nz/assets/Uploads/RIA/RIS-Enhanced-Drug-Driver-Testing.pdf>