

Case 8 – Bill

Bill, aged 54, has just been diagnosed with epilepsy. He is very anxious that he will lose his job as a bus driver if his employer finds out. He implores you not to tell his employer about his health condition.

Best Practice Response

Material facts

- The relevant facts are:
 - Bill has “just” been diagnosed with epilepsy.
 - Bill doesn’t want you to tell his employer about his health condition.

Ethical considerations and medico-legal issues

- Doctors have an ethical duty to maintain the confidentiality of patient’s personal information including their medical records, disclosing their information to others only with the patient’s express up-to-date consent or as required or authorized by law.
- There are certain situations where doctors can breach patient confidentiality. There is an overriding duty in the “public interest” to disclose information, such as when there is a “serious” threat of harm to an individual and it is unreasonable and/or impractical to obtain consent.
- A “serious” threat must reflect significant danger, and could include a potentially life threatening situation or one that might reasonably result in other serious injury or illness to any individual, whether it be the patient concerned or a third party.
- There is also legislation in all States and Territories that enables doctors to report to the Driver Licensing Authority individuals who they believe are unfit/unsafe/dangerous to drive.
- The requirement to make a report to the Driver Licensing Authority is mandatory in the Northern Territory and South Australia.
- At a Federal level, clinical guidelines exist for assessing fitness to drive. These guidelines are called Austroads Assessing Fitness to Drive.

MDA’s recommendations

- Bill does not meet Austroads Assessing Fitness to Drive standards for a commercial driver. Under the Austroads guidelines, if epilepsy is being treated for the first time and the patient is a commercial vehicle driver, there is a minimum 10 year non-driving seizure-free period.
- A report should be made to the DLA and not his employer.

Links to resources:

<https://ama.com.au/media/new-code-ethics-doctors>

<http://www.mdanational.com.au/Resources/Publications/Medico-legal-Booklets> (Confidentiality and Consent booklet)

<https://www.oaic.gov.au/agencies-and-organisations/app-guidelines/chapter-6-app-6-use-or-disclosure-of-personal-information>

<https://www.oaic.gov.au/engage-with-us/consultations/health-privacy-guidance/business-resource-using-and-disclosing-patients-health-information>

<http://www.austroads.com.au/drivers-vehicles/assessing-fitness-to-drive>