

The Vehicles for Hire Bylaw, 2019 Medical Reporting

Current Status

The requirement for Classes 1 – 4 drivers to submit medical reports is not found in the legislation. Instead, *The Traffic Safety Act* provides that Saskatchewan Government Insurance (“SGI”) may require anyone applying for, or who holds, a driver’s licence to file a medical report whenever it requests. This applies to all classes of driver’s licences, so SGI could equally require class 5 driver’s licence holders to regularly file a medical report, but has elected not to.

SGI requests medical reports for applicants for Classes 1 – 4 licences to comply with the National Safety Code Program (the “Program”). The purpose of the Program is to establish a comprehensive code of minimum performance standards for the safe operation of commercial vehicles. The Program applies to all persons responsible for the operation of commercial vehicles on the road, including trucks, buses, tractors and trailers. Under the Program, medical reports are requested as part of the initial application, and then every:

- five years for drivers 18 to 45 years of age;
- three years for drivers 46 to 65 years of age; or
- one year for drivers 66 years of age or older.

The medical reports are assessed by SGI’s Medical Review Unit, which determines whether any reported medical condition may affect the driver’s driving ability and, if so, whether this should be addressed by restrictions or endorsements on the licence, a change in class of licence, or whether the licence should be refused, suspended, or cancelled for a specific period or indefinitely. The Medical Review Unit staff are medical professionals and driver’s licence administrative specialists who specialize in assessing and monitoring drivers who have medical conditions that may affect their ability to drive.

Although regular medical reports are not required for Class 5 drivers by SGI, many protections are in place to ensure that Class 5 drivers do not have medical conditions that would affect their ability to drive. For example, whenever a driver applies for or renews their driver’s licence, they are required to report any medical condition that might affect their ability to drive to SGI using a Supplementary Medical Application form. After a medical condition is reported, the Medical Review Unit determines if the driver has the medical fitness and skills needed to safely drive a vehicle.

The Traffic Safety Act requires physicians, optometrists, occupational therapists and nurse practitioners to report drivers who experience conditions that make it dangerous for them to drive a vehicle. Police, courts, concerned citizens and family members may choose to report medical conditions that they believe may make it dangerous for a driver to drive. After a medical condition is reported, SGI’s Medical Review Unit

assesses the driver's ability to drive and makes the same determination described above respecting restrictions, suspensions, etc.

Both taxi drivers and transportation network company ("TNC") drivers are subject to the same requirements for driver's licence class under *The Vehicles for Hire Regulations* (the "Regulations"). The proposed Bylaw requires both taxi drivers and TNC drivers to comply with the *Regulations* for driver's licence class.

Approaches in Other Jurisdictions

The Cities of Regina, Edmonton, and Ottawa do not have any requirements or references to medical reports or medical examinations for vehicle-for-hire drivers.

The City of Winnipeg requires a taxi driver to report a change in the driver's medical condition that could affect their ability to drive, but does not require a medical report to be completed by a health professional. The City of Winnipeg does not require its personal transportation provider drivers (equivalent to TNC drivers) to make the same report of a change in medical condition. Similarly, the City of Calgary requires its Licensees (which include both taxi and TNC drivers) to notify the City of any changes in a medical diagnosis which would affect the driver's ability to drive or that could affect the safety of the public.

The City of Toronto may choose to request a certificate signed by a duly qualified medical practitioner certifying that the driver is fit to drive a vehicle-for-hire, but does not have a mandatory requirement for a certificate. The City may only request the certificate once every three years unless there are reasonable grounds to believe that, by reason of illness, injury or other physical or mental impairment, the conduct of a vehicle-for-hire driver may not be in accordance with the municipal code or may endanger the health or safety of other people. In those circumstances, the certificate may be requested sooner.

Previously, the City of Mississauga required medical certificates for taxi drivers. However, following a review in 2017, its bylaw was amended to remove the requirement and permit the City to request a medical certificate of a taxi driver only if it "may be in the public interest". The City amended the bylaw because the provincial requirements in Ontario, as in Saskatchewan, are that medical practitioners must notify the provincial driver's licensing authority when a driver has a medical issue that affects their ability to operate a vehicle safely and the City benchmarked municipalities in Ontario and found that no other municipality had a similar requirement. There is no provision in the City of Mississauga's TNC bylaw that allows the request for a medical certificate.

In summary, none of the cities reviewed required medical certificates for vehicle-for-hire drivers. Toronto and Mississauga may request a medical certificate in certain circumstances, and Winnipeg and Calgary require that changes in the medical condition of a driver be reported.

Options

Option 1 – require annual medical reports

This option would require all vehicle-for-hire drivers to supply a medical report each year. Taxi drivers would provide the medical report to the City and TNC drivers would provide the medical report to the transportation network company. This difference is due to the licensing structure – the City licenses taxi drivers but TNC drivers are managed by the transportation network company under its licence.

This option would require the City to:

- develop a medical report outline;
- determine how medical reports received will be reviewed;
- determine what are acceptable and not acceptable medical conditions, if reported;
- hire or train staff to review and assess medical reports (a medical professional may be required for the review); and
- establish appropriate safeguards to protect the personal health information collected from the vehicle-for-hire drivers (personal health information is more sensitive than other personal information and more stringent standards must be applied).

This option carries an increased risk of potential liability for the City if injury or damage is caused by a vehicle-for-hire driver's medical condition, because the City will have put itself in the position of establishing what medical conditions are acceptable for drivers.

No other city has such a requirement for its vehicle-for-hire drivers. Implementing a requirement for an annual medical report would create significant overlap with the reporting and assessment already required by SGI. This requirement would necessitate a significant amount of administration, in terms of creation, training, assessment, and appropriate storage of information.

If Class 5 drivers were required to submit a medical report to the City in order to be vehicle-for-hire drivers but Classes 1 – 4 submitted to SGI under the existing framework, medical assessment would be unevenly applied for vehicle-for-hire drivers in the City.

Option 2 – provide medical report upon request

This option would require a vehicle-for-hire driver to supply a medical report only when requested by the City. As in Option 1, taxi drivers would report to the City and TNC drivers would report to the transportation network company.

This option would require the City to:

- establish a policy for when medical reports will be requested;
- develop a medical report outline;
- determine how medical reports received will be reviewed;

- determine what are acceptable and not acceptable medical conditions, if reported;
- hire or train staff to review and assess medical reports (a medical professional may be required for the review); and
- establish appropriate safeguards to protect the personal health information collected from the vehicle-for-hire drivers (personal health information is more sensitive than other personal information and more stringent standards must be applied).

As with Option 1, this option carries an increased risk of potential liability for the City if injury or damage is caused by a vehicle-for-hire driver's medical condition, because the City will have put itself in the position of establishing what medical conditions are acceptable for drivers.

Both Toronto and Mississauga may request medical reports in certain circumstances from vehicle-for-hire drivers. This option would necessitate a significant amount of administration, in terms of creation, training, assessment, and appropriate storage of information. Because the medical reports would only be provided upon request, there is the possibility of unequal application of the bylaw. This option mimics the existing powers of SGI to request medical reports from any licensed driver.

Option 3 – require reporting of any change in medical condition

This option would require all vehicle-for-hire drivers to report any change in their medical condition that could affect their ability to drive. As in Options 1 & 2, taxi drivers would report to the City and TNC drivers would report to the transportation network company.

Similar to Options 1 & 2, this option would require the City to:

- determine how reports of a change in medical condition will be received and reviewed;
- determine what are acceptable and not acceptable medical conditions, if reported;
- hire or train staff to review and assess reports of change in medical condition (a medical professional may be required for the review); and
- establish appropriate safeguards to protect the personal health information collected from the vehicle-for-hire drivers (personal health information is more sensitive than other personal information and more stringent standards must be applied).

Again, as with Options 1 & 2, this option carries an increased risk of potential liability for the City if injury or damage is caused by a vehicle-for-hire driver's medical condition, because the City will have put itself in the position of establishing what medical conditions are acceptable for drivers.

Both Winnipeg and Calgary have a similar requirement for their vehicle-for-hire drivers. This option directly overlaps with what is already required by SGI of all drivers: all drivers must report their medical conditions either when they are diagnosed, or when they renew their driver's licences. Further, *The Traffic Safety Act* requires physicians, optometrists, occupational therapists and nurse practitioners to report drivers who experience conditions that make it dangerous for them to drive a vehicle and police, courts, concerned citizens and family members may choose to report such conditions. This requirement would necessitate a significant amount of administration, in terms of creation, training, assessment, and appropriate storage of information.

Option 4 – require reporting of change to driver's licence

The proposed *Vehicles for Hire Bylaw* requires vehicle-for-hire drivers to immediately report the “suspension, cancellation, revocation, invalidation or amendment of their driving privileges or Saskatchewan Driver's Licence.” As in all previous options, taxi drivers would report to the City and TNC drivers would report to the transportation network company.

This option does not create any additional administrative burden for the City, nor does it create the possibility of increased liability for the City. The City would rely on the existing legislative framework and the established expertise of SGI's Medical Review Unit to assess the medical fitness of vehicle-for-hire drivers.

Recommendation

The recommended approach is Option 4.

In Saskatchewan, SGI's Medical Review Unit is the expert at assessing and monitoring drivers who have medical conditions that may affect their ability to drive. The City of Saskatoon staff is not trained or experienced in making these assessments. The public is best protected by relying on the expertise and experience of SGI's Medical Review Unit for this task.

The Government of Saskatchewan has established a comprehensive framework to ensure that all drivers are medically fit to drive. If any driver, including a Class 5 driver, has a medical condition that might affect their ability to drive, the driver is required to report, the driver's medical professionals are required to report, and any member of the public may choose to report the condition to SGI.

The Bylaw has been drafted to ensure that any change applied by SGI's Medical Review Unit to a vehicle-for-hire driver's licensing, including restrictions or endorsements on the licence, a change in class of licence, or the refusal, suspension, or cancellation of the licence for a specific period or indefinitely, will be reported to the City. The City may then determine whether the driver is still entitled to drive under the Bylaw's regime. This allows for consistent requirements to be applied to all vehicle-for-hire drivers, works to the strengths of the City and SGI, limits the City's potential liability, and protects the public.