



Ms Jacinda De Witts
Deputy Secretary and General Counsel,
Regulation, Risk, Integrity and Legal
Department of Health
50 Lonsdale Street
MELBOURNE VIC 3000

2 July 2021

Dear Ms De Witts

**REGULATORY IMPACT STATEMENT FOR NON-EMERGENCY PATIENT TRANSPORT
AMENDMENT REGULATIONS 2021**

I would like to thank your staff at the Department of Health (the Department) for working with the team at Better Regulation Victoria on the preparation of a Regulatory Impact Statement (RIS) for Non-Emergency Patient Transport Amendment Regulations 2021 (the proposed Regulations).

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be written clearly so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 2 July 2021 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background

Non-emergency patient transport (NEPT) is for patients who require clinical monitoring or supervision during transport, but do not require a time critical ambulance response. Most NEPT transfers occur between a patient's home and a hospital or between hospitals. Some patients may be transported to and from specialist health appointments and rehabilitation. Transports need to be authorised as clinically necessary by an appropriate health professional.

NEPT is regulated in Victoria under the *Non-Emergency Patient Transport Act 2003* (the Act) and the *Non-Emergency Patient Transport Regulations 2016* (the Regulations). NEPT operators must be licensed by the Department before they can provide services.

NEPT is organised according to the acuity of the patient. Patient acuity is divided in to 3 levels of low, medium and high. The higher the acuity, the worse the health of the patient. All NEPT patients must be stable and not require time critical transport, otherwise they are transported by ambulance.

Ambulance Victoria (AV) plays an important role in NEPT. AV provides NEPT services and it purchases NEPT services from private operators. There are currently 20 private NEPT operators who are licensed, seven of which are currently contracted to AV and supply about 55 per cent of the AV NEPT services. Some of the 20 licensees are for-profit and some are not-for-profit.

In 2018-19, the 20 private licensees undertook 250,000 non-emergency patient transports independently and a further 155,000 transports for Ambulance Victoria. They operated 428 vehicles and 6 aircraft. They employed about 1,700 clinical staff.

The sector (private NEPT operators) is estimated to turn over about \$120 million per year. The sector is funded through a mix of Victorian Government funding (through AV and other health services purchasing NEPT services), patients' private health insurance policies, AV membership fees, third-party patient fees from WorkSafe, Transport Accident Commission and the Commonwealth Department of Veterans Affairs, and from full fee paying patients.

The Government has also developed a Bill to amend and update the Act to make patient safety an explicit objective of the Act, to strengthen patient safety requirements and increase the penalties for non-compliance. The Department explains that the proposed Regulations will support these amendments to the Act.

Options development

In the RIS, the Department explains that it has explored a range of options with NEPT licence holders and other stakeholders to improve NEPT services. It has analysed options for the following aspects of NEPT services:

- use of powerlift stretchers and lifting cushions
- operating lives of NEPT vehicles
- clinical governance
- staff training
- occupational health and safety of NEPT staff.

For several of these aspects of NEPT services, in the RIS the Department analyses regulatory amendments against industry-led codes of conduct, and explains that

regulatory amendments are preferred at present rather than developing a code of conduct.

Impact of the proposed Regulations

The Department uses multi-criteria analyses (MCAs) in the RIS to assess the proposed option and alternative options for different aspects of NEPT services. In these MCAs, the benefits from improved patient and staff safety are compared to estimated increases in costs to NEPT licensees. Impacts are estimated until 2026, when the Regulations are due to sunset. The total costs are estimated to be \$62 million from 2021 to 2026.

In its analysis, the Department notes that it expects that the 7 smallest of the 20 licensees will exit the market because amendments to the Act require it to:

- cancel licences where the licensee does not transport any patients; and
- cancel licences where the licensee transports fewer than 250 patients per year unless the licensee can demonstrate that its staff can maintain minimum competencies to transport patients safely.

Three of these licensees do not transport any NEPT patients and the remaining four transport very few.

The Department explains that amendments to the Act introduced a first aid licence. It is expected that these seven licensees will transition to a first aid licence as providing first aid is currently their predominant activity. First aid licences are cheaper and less onerous than NEPT licences, so these seven licensees will benefit from the package of changes to the Act and Regulations. The Department also explains that the exit of these licensees will not reduce services in rural or regional areas as other private providers or AV will continue to provide coverage of these areas.

Power lift stretchers and lifting cushions

The Department explains that under the proposed Regulations, powerlift stretchers will be required in all NEPT vehicles and lifting cushions will be required in all vehicles that transport people from their homes. These devices are already in some NEPT vehicles including in all vehicles contracted to AV. It is estimated that licensees will be required to spend in the order of an additional \$12 million to purchase powerlift stretchers (at a cost of about \$40,000 each) and about \$1 million to purchase lifting cushions (at a cost of about \$3,500 each).

The Department also explains that it anticipates about 30 per cent of dual-stretcher vehicles will be transitioned to be single-stretcher vehicles at an estimated cost of \$8 million for additional vehicles and \$6 million per year for additional staff. While the Regulations do not explicitly require NEPT licensees to transition from dual- to single-stretcher vehicles, these costs are included in the analysis. There are several

reasons why licensees might transition to single stretcher vehicles. Under the proposed Regulations, NEPT licensees will be required to transport medium acuity patients in single stretcher vehicles (this is already required for high-acuity patients). The Department explains that staff cannot effectively monitor and treat medium and high acuity patients in dual stretcher vehicles. The Department also notes that AV transports all NEPT patients in single-stretcher vehicle and requires single-stretcher vehicles to be used for all services it purchases from private NEPT providers.

The Department explains that these costs (estimated to be \$45 million in total to 2026) will be more than offset by benefits from reducing manual handling injuries for NEPT staff, as well as benefits to patients. Benefits from reducing manual handling injuries for NEPT staff are based on falling injury rates for AV staff when these devices were introduced into all ambulances.

Operating life of NEPT vehicles

The Department analyses two options for limiting the operating life of NEPT vehicles:

1. a 400,000km limit (usually reached after six years); and
2. a seven-year limit.

The Department explains that these options will have a limited impact on licensees as six licensees (operating most NEPT vehicles) of the remaining 13 licensees already change their vehicles over at 400,000km. The Department explains that its preferred option is a 400,000km limit because it is more effective in ensuring there is a relatively modern vehicle fleet to protect patients and staff. It estimates that licensees will have to spend an additional \$1.3 million to 2026 on vehicles (\$160,00 per vehicle, including fit out) as a result of the preferred option.

The Department acknowledges that some stakeholders preferred a seven-year limit because rural mileage accrues more quickly and does not generally create the same wear and tear as suburban mileage.

Clinical governance

Clinical governance is a health service's procedures and protocols to manage, review and improve its clinical activities over time. The Department explains that some licensees have sophisticated clinical governance arrangements in place while others only have rudimentary arrangements. It proposes to require licensees to have minimum clinical governance standards and estimates that the additional costs to NEPT licensees will be about \$2.6 million to 2026. The Department explains that the benefits of these amendments through improved patient outcomes will outweigh the costs.

Staff training

The Department proposes that all licensees must:

- provide specific clinical training, such as manual handling, life support and defibrillation, face-to-face rather than remotely;
- provide mental health training to clinical staff, to help them manage patients exhibiting mental health symptoms; and
- provide 100 hours of supervised on-road training for new patient transport officers.

The Department estimates that the additional cost of the staff training proposal for licensees is \$12.5 million to 2026. The requirement to provide 100 hours of supervised training makes up more than half of this cost and the requirement to provide specific training face-to-face makes up about 40 per cent of the cost. The Department explains that some types of training can only be effectively delivered and assessed face-to-face. It also explains that these amendments will ensure that all NEPT staff have the minimum competencies to ensure patient safety, and that these benefits will outweigh the costs.

Occupational health and safety

The Department proposes to require all NEPT licensees to maintain a third-party accredited occupational health and safety (OHS) plan. It explains that of the 13 remaining licensees, one already has an accredited plan and eight have non-accredited plans. Under the proposal, accreditors would themselves be required to be accredited to international standards.

Additional costs to licensees are estimated to be \$700,000 to 2026 including costs of developing a plan (\$10,000 per plan), having it accredited (\$8,000) and audited annually (\$3,500). The Department explains that accredited OHS plans will improve workplace culture around health and safety and reduce the risk of injuries and illness, and that these benefits outweigh the costs of the proposal. It also explains that these changes could reduce costs to operators through lower workers compensation premiums from fewer injuries.

Implementation and Evaluation

In the RIS, the Department notes that the proposed Regulations are intended to commence no later than 30 September 2021. The Department notes that the requirement for power lift stretchers and vehicle life limits will be phased in over three and five years, respectively, given these requirements will significantly increase costs. There will be a 12-month transition period for lifting cushions.

The Department explains that since the proposed Regulations introduce a range of new patient safety and quality of service requirements, it will strengthen its risk management approach to compliance and target areas of greatest risk. The Department also notes that, in general, any measures taken to mitigate risks will be done with licensees to assist them improve performance.

The Department discusses key elements of evaluating the proposed Regulations in the RIS.

- Authorised officers will continue to inspect NEPT operators using a risk-based approach. These inspections will provide compliance data that will be used to assess safety and quality. The Department notes that, subject to resourcing, it will compare data from before and after the proposed Regulations commence to evaluate impacts.
- The Department intends to seek feedback three years after the commencement of the proposed Regulations from NEPT licensees. It intends to use this feedback in developing the 2026 Regulations.
- The Regulations will sunset in 2026, so they will be reviewed and a RIS will be prepared.
- In relation to vehicle life limits, the safety of the service will be measured, if possible, by the number of patient injuries arising from the transport, the number of patient complaints relating to the comfort of the journey, and the number and type of Workcover claims lodged by staff crewing vehicles.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on 03 7005 9772.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation