

Medical conditions may interfere with aviation safety

Medical practitioners must report to the CAA any pilot or air traffic controller who has a medical condition that may interfere with aviation safety. This is a public safety responsibility held by all New Zealand registered medical practitioners.

The legal basis of this requirement, along with specific indemnification against civil or criminal liability, is contained in Schedule 2, clauses 8-9 of the Civil Aviation Act 2023 (See 'Looking at the law' section overleaf).

This information sheet provides guidance, for medical practitioners, concerning this public safety responsibility.

How do I know if a medical condition should be reported?

Unfortunately, there is no conclusive list of specific medical conditions that may interfere with aviation safety. Virtually every medical condition, or its treatment, has the potential to interfere with aviation safety.

To make an informed judgement of whether a case warrants being reported a medical practitioner may wish to consider whether their patient's medical condition, or its treatment, has the potential to:

1. Result in any behavioural changes;
2. Lead to any increased risk of incapacitation (sudden, gradual, profound, subtle, partial, etc);
3. Result in any reduction or impairment in functional (physical, cognitive etc) capacity;
4. Lead to any reduction in the individual's capacity for decision-making, attention, or concentration.

If a medical practitioner is seeing a pilot or air traffic controller and their medical condition, or its treatment, has no potential for any of these problems then it is unlikely that there are 'reasonable grounds' for the medical practitioner to believe that a reporting obligation arises.

If the medical practitioner is not confident of this then it would probably be appropriate to seek the advice of a medical practitioner colleague with expertise in the field of aviation medicine. To that end the aviation medical experts in the CAA Central Medical Unit can provide advice (contact details overleaf).

How do I know if a patient is a pilot or air traffic controller?

A medical practitioner may not, on all occasions, know whether a patient is a pilot or air traffic controller. Generally, however, information concerning a patient's work and hobbies can influence clinical medical decision-making and would be obtained as a part of a complete medical history.

Of course, a medical practitioner could not be expected to know that a patient is a pilot or air traffic controller if that patient had not provided complete or accurate information in response to questions concerning professional or recreational activities.

Do I need to report every pilot?

This legal responsibility applies to patients who are licence holders as defined in Schedule 2, clause 1 of the Act. This definition includes private pilots, commercial pilots, airline pilots, and air traffic controllers. The definition includes **some** student pilots, parachutists, glider pilots, ultralight / microlight pilots, hang-glider pilots, and balloonists.

If you are unsure whether this obligation applies to your patient, then the CAA Medical Unit can provide advice (contact details overleaf).

What about patient confidentiality?

Medical practitioners have a responsibility to treat patient information with confidence. Medical practitioners also have public safety responsibilities to report information concerning their patients' medical conditions. Your obligation to report to the CAA is one example of an express statutory provision that provides for a doctor to be able to disclose information without patient consent and without contravening the Health Information Privacy Code 2020.

In fulfilling your obligation under the Civil Aviation Act, while also recognising your obligation to patient confidentiality, you may consider reporting only the minimum information necessary to the CAA. Further guidance on these complex issues can be found in the Medical Council of New Zealand guidelines and statements (e.g. 'Confidentiality and public safety' and 'Legislative requirements about patient rights and consent').

Wouldn't I expose myself to legal challenge in making such a report?

The Civil Aviation Act provides specific and powerful indemnification for medical practitioners who, in good faith, make the required reports to the CAA (See 'Looking at the law', Schedule 2, clause 9, below).

Do I need to tell my patient that I am advising the CAA?

Yes. In making such a report it is important to communicate openly and effectively with your patient - including the fact that you will be advising the CAA - and to clearly document the reasons for your decision in your notes.

How do I make a report?

The CAA medical helpdesk can be contacted by telephone, fax, email, or post. Contact information is provided below. The medical practitioner is also required to inform the pilot or air traffic controller that a report will be made to the CAA.

Should you need any further information on these matters the aviation medical experts in the CAA Medical Unit can provide advice. Contact details are provided below.

The attached CAA Medical Information Sheet (MIS 002b) is intended for medical practitioners to be able to pass to their pilot/air traffic controller patients.

Looking at the law

The relevant primary legislation is contained within the Civil Aviation Act 2023. Schedule 2, clauses 8(3) and 9 of this Act state:

Sch 2, cl 8(3): If a medical practitioner has reasonable grounds to believe that a person is a licence holder and is aware, or has reasonable grounds to suspect, that the licence holder has a medical condition that may interfere with the safe exercise of the privileges to which the licence holder's medical certificate relates, the medical practitioner must, as soon as practicable,—

- (a) inform the licence holder that the Director will be advised of the condition; and
- (b) advise the Director of the condition.

Sch 2, cl 9: (1) An aviation examiner, a medical examiner, or a medical practitioner is not subject to any civil or criminal liability for—

- (a) doing an indemnified act in good faith in the course of carrying out the examiner's or practitioner's functions under this schedule; or
- (b) doing an indemnified act in good faith in the course of answering any questions put to the examiner or practitioner by the Director that—
 - (i) concern a licence holder; and
 - (ii) are relevant to any action the Director may take under this schedule.

(2) In this clause, indemnified act means any of the following acts:

- (a) advising the Director, whether in writing or otherwise, that a licence holder—
 - (i) may not meet the medical standards prescribed in the rules; or
 - (ii) may be unable to safely exercise the privileges to which the licence holder's medical certificate relates:
- (b) expressing to the Director, whether in writing or otherwise, an opinion that the licence holder whom the aviation examiner or medical examiner or medical practitioner has examined or treated may be unable to safely exercise the privileges to which the licence holder's medical certificate relates because of—
 - (i) illness or any bodily or mental infirmity, defect, incapacity, or risk of incapacity suffered by the licence holder; or
 - (ii) the effect on the licence holder of treatment for any illness, infirmity, defect, incapacity, or risk of incapacity:
- (c) stating to the Director, whether in writing or otherwise,—
 - (i) the nature of a licence holder's illness, infirmity, defect, incapacity, or risk of incapacity; or
 - (ii) the effect on a licence holder of treatment for any illness, infirmity, defect, incapacity, or risk of incapacity.

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