



Aviation Safety

versus

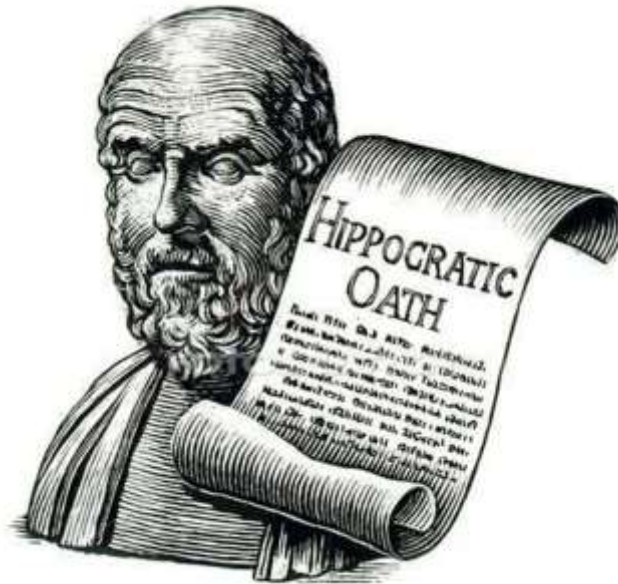
Medical Confidentiality

Aviation Safety v Medical Confidentiality

Disclosure of health information for accident prevention and investigation.

Annemarie Schuite

International Institute of Air and Space Law



Ἄ δ' ἂν ἐνθεραπείῃ ἴδω ἢ ἀκούσω, ἢ καὶ ἄνευ θεραπείης κατὰ βίον ἀνθρώπων, ἃ μὴ χρή ποτε ἐκλαεῖσθαι ἔξω, σιγήσομαι, ἄρρητα ἠγεύμενος εἶναι τὰ τοιαῦτα.

And whatsoever I shall see or hear in the course of my profession, as well as outside my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets.



Accident Germanwings Airbus 320-211,
Alpes-de-Haute-Provence, France, 24 March 2015



YOU MIGHT
need To CHECK
THAT AT the
GATE...

MENTAL
BAGGAGE



Cessna 172N crash, Tuulikki-Vampula Aerodrome, Finland, 24 September 2016

Exceptions



- Consent
- Legal obligation
- Legal authorization

Research question

The background image is a monochromatic blue-toned photograph. On the left, a statue of Lady Justice stands with her right arm raised holding a scale of justice and her left hand holding a sword. In the center, there is a stack of several books. On the right, a large globe is visible. The scene is lit from the side, creating strong shadows and highlights.

Aviation safety

Public interest

Medical confidentiality

Individual interest

Comparative analysis legal framework



Findings



- Large variation in legal provisions
- Difference between reporting unfit pilot and accident investigation
- Possible non-compliance with international standards

Tools to balance



- **OBTAINING CONSENT IS NOT POSSIBLE**

Aviation safety

- **MORAL CONFLICT**

Public interest

- **POSSIBLY SERIOUS DAMAGE**

- **BREACHING CONFIDENTIALITY CAN PREVENT**

Medical confidentiality

- **BREACHING AS MINIMAL AS POSSIBLE**

Individual interest

- **NO OTHER SOLUTION**



AEROSPACE MEDICAL
ASSOCIATION

“supporting an international policy for **mandatory reporting** of **aircrew** and **aviation-related personnel** who have **medical** or **psychiatric** conditions that would be **hazardous** to **safety** aviation duties.”

(June 2017)

However: A thorough evaluation on the effectiveness and possible *adverse effects* of a mandatory reporting obligation is advisable.

Way forward?



Afghanistan
Albania
Algeria
Andorra
Angola
Antigua and Barbuda
Argentina
Armenia
Australia
Austria
Azerbaijan
Bahamas
Bahrain
Bangladesh
Barbados
Belarus
Belgium
Belize
Benin
Bhutan
Bolivia (Plurinational State of)
Bosnia and Herzegovina
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cabo Verde
Cambodia
Cameroon
Canada
Central African Republic

Chad
Chile
China
Colombia
Comoros
Congo
Cook Islands
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Cyprus
Czechia
Democratic People's Republic of Korea
Democratic Republic of the Congo
Denmark
Djibouti
Dominican Republic
Ecuador
Egypt
El Salvador
Equatorial Guinea
Eritrea
Estonia
Eswatini
Ethiopia
Fiji
Finland
France
Gabon
Gambia
Georgia

Germany
Ghana
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haiti
Honduras
Hungary
Iceland
India
Indonesia
Iran (Islamic Republic of)
Iraq
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kazakhstan
Kenya
Kiribati
Kuwait
Kyrgyzstan
Lao People's Democratic Republic
Latvia
Lebanon
Lesotho
Liberia
Libya

Lithuania
Luxembourg
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Marshall Islands
Mauritania
Mauritius
Mexico
Micronesia (Federated States of)
Monaco
Mongolia
Montenegro
Morocco
Mozambique
Myanmar
Namibia
Nauru
Nepal
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Palau
Panama
Papua New Guinea

Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Republic of Korea
Republic of Moldova
Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
San Marino
Sao Tome and Principe
Saudi Arabia
Senegal
Serbia
Seychelles
Sierra Leone
Singapore
Slovakia
Slovenia
Solomon Islands
Somalia
South Africa
South Sudan
Spain
Sri Lanka
Sudan
Suriname

Sweden
Switzerland
Syrian Arab Republic
Tajikistan
Thailand
The former Yugoslav Republic of Macedonia
Timor-Leste
Togo
Tonga
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Tuvalu
Uganda
Ukraine
United Arab Emirates
United Kingdom
United Republic of Tanzania
United States
Uruguay
Uzbekistan
Vanuatu
Venezuela (Bolivarian Republic of)
Viet Nam
Yemen
Zambia
Zimbabwe

Questions, remarks etc



Tutorial
2 september 2019
ISASI 2019, The Hague
<http://isasi2019.org/>



Annemarie Schuite
legal officer Dutch Safety Board
j.schuite@safetyboard.nl
+31 70 33 370 93