ICAO Medical Confidentiality
Survey feedback

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Subject: State support for the designated disclosure of specific and limited medical confidential information

Action required: Submit the medical confidentiality survey to ICAO by 20 November 2018

PART A. Reporting of aircrew and other aviation-related personnel with medical conditions or psychiatric conditions that could be hazardous to aviation or public safety

PART B. Accident and incident investigation
ICAO confidentiality Survey

Survey Response

28% Received
72% Not received
Does your legislation provide for **mandatory reporting** (or alternatively allow) reporting of **flight crew or other aviation related personnel** who might pose a threat to aviation safety or public safety due to a medical or psychological condition (i.e. a threat to themselves or other persons)?

- 53% Yes
- 26% Allows
- 21% No

- 11 countries reporting not mandatory/allowed
- Majority Asia-Pacific
- Keep in mind poor response from African countries
Does your State have laws in place that **prohibit medical professionals to disclose** medical confidential information for purposes of reporting a patient who might be a threat to aviation or public safety?

- **40%** law prohibits disclosure
- **56%** no
- **4%** unknown

- **20 countries with complicated laws**
- **Majority Europe and Asia-Pacific**
- **Examples**
  - Law on protection of Data
  - Data Privacy Act
  - Criminal Code
  - Penal code
  - Personal Information Protection Law
  - General Health Law
  - National Health Act
  - Constitution
  - **Only by court order**
Are there any legal provisions that **hold medical service providers liable for failure to disclose** confidential medical information in the interest of aviation or public safety?

- **Yes**: 32%
- **No**: 60%
- **Unknown**: 8%

- 17 countries with legal liability
- Need to clarify with respondents

Canada has specific applicable article in Aeronautics law

...Italian Penal Code establishes the just cause to medical disclosure and the article 40 states that not preventing an event that is on your duty to prevent is equivalent to causing it.
If not contained in legal provisions, are there any other policies, procedures, recommendations or guidelines available (e.g. civil aviation authority, medical regulatory bodies, medical organisations, medical insurance companies, employers etc.) that allow for disclosure of medical confidential information of flight crew or aviation-related personnel to specific parties for specific reasons?

- Small % of guidelines
- Examples of guidelines
  - Health Regulatory Commission
  - Aviation Authority handbooks
  - Code of Ethics
  - Air operators/ provider manuals
  - Website
  - Newsletters

Other Guidelines Available

- Yes: 21%
- No: 72%
- Unknown: 7%
Is there any relevant **case law** that needs to be taken into account when interpreting the applicable legislation on this topic?

- **8 countries**
- Australia, Austria, Canada, France, Germany, Portugal, Spain, Venezuela
Does your accident investigation authority have access to confidential medical information of flight crew involved in an accident or (serious) incident?

- **Yes**: 79%
- **No**: 17%
- **Unknown**: 4%

- 9 countries no access
- Majority in Europe
Do different rules on access to medical information for the accident/incident investigation authority apply, depending on whether the flight crew survived the accident/incident?

- 9 countries
- Europe (3), AP (3), Americas (3)
Is there any **guidance material** (e.g. from a regulatory body, medical organisations, the accident investigation authority, etc.) on this matter?

- 9 countries
- Europe (3), AP (3), Americas (3)
- Examples
  - Manuals
  - Rulebooks
  - Website
Is there any relevant case law that needs to be taken into account when interpreting the applicable legislation on this topic?

- 6 countries
- Canada, Cyprus, Portugal, Spain, US, Venezuela
• Poor response rate
• Misinterpretation of questions
• Some cases not completed by most applicable person
• Quality of response varied
• Insufficient detailed information
• Survey not compiled by expert; although it was widely circulated prior to distribution
Value of the survey

- Good geographical representation
- Confirmed the variability in practices
- Identified regional priorities
- Identified focus areas in specific regions and countries
- Identified interventions that could be implemented to assist AME’s and accident investigators
- Identified relevant questions for a follow-up survey
- Provided possible solutions that can be provided to States during discussion and consultation process to support possible amended SARPs and guidance material
Clarifying some of the responses
Draft formal report for submission to ICAO Management
Obtain appropriate resources for follow up survey
Conduct follow-up survey
Submission to ICAO MED work groups on Mental Health & Alcohol and substance use
Submission to AIG (Accident Investigation) panel and MPSG (Medical Provisions Study Group)
Recommendations to Air Navigation Commission following ICAO regulatory procedure
Assembly
192 Member States

Council
36 Members elected by Assembly

Meet as determined by Council

Committees & Commissions

Meet 3 times/year

Secretariat
Led by Secretary General elected by Council

Work Groups

MPSG

ICAO Regulatory Process