

Medical Practitioner obligations

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 section 27C of the Civil Aviation Act 1990 (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 particular medical situation 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 impairments 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 section 27A of the Act. This definition includes **all** 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 particular patient then the CAA Central 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 concern-

ing 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 1994.

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", sections 27C(4) & (5), below).

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 help-desk 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 Central Medical Unit can provide advice. Contact details are provided below.

The attached CAA Medical Information Sheet (MIS 002a) 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 1990. Sections 27C(3), (4), and (5) of this Act state:

- (3) Subject to any directions that the Director may issue under section 27G(1)(b), 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.
- (4) An aviation examiner or 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 his or her functions under this Part; or
 - (b) doing an indemnified act in good faith in the course of answering any questions put to him or her by the Director that—
 - (i) concern a licence holder; and
 - (ii) are relevant to any action the Director may take under this Part.
- (5) In this section, 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 exercise safely 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 who the aviation examiner or medical examiner or medical practitioner has examined or treated may be unable to exercise safely 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.

CAA Medical Help Desk

Tel: +64-4-560 9466 Fax: +64-4-560 9470

Email: med@caa.govt.nz web site: www.caa.govt.nz

CAA Central Medical Unit, P O Box 31-441, Lower Hutt, New Zealand

Your doctor must advise the CAA

Medical conditions may interfere with aviation safety

You have probably been given this information sheet because your doctor is planning to advise the CAA in respect to your medical condition.

Why does my doctor have to report to the CAA?

All doctors have a legal obligation to advise the CAA if they believe or suspect that a 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".

How bad does my situation have to be for a doctor to report to the CAA?

Medical conditions, or their treatment, have the potential to interfere with aviation safety in a variety of ways. They may:

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

In considering your medical situation your doctor may either:

1. believe or suspect that your medical situation may lead to any of these impairments;
2. be unsure that your medical situation cannot lead to any of these impairments;
3. be confident that your medical situation cannot lead to any of these impairments.

If your doctor believes or suspects that your medical situation may lead to any of these impairments then they have a legal obligation to advise the CAA. If your doctor is not sure that your medical situation will not lead to any of these impairments then they should consult the CAA medical unit to seek further advice. If your doctor is confident that your medical situation cannot lead to any of these impairments then it's unlikely that the CAA needs to be advised.

What will the CAA do?

The CAA will acknowledge the doctor's report. The CAA will then review your medical situation in light of the information received. Further information may be sought, and a decision will be made as to whether, or not, further action is appropriate. The nature of any CAA response to this information will depend on the individual circumstances of your case, and you will be kept fully informed throughout the review.

Does this requirement apply to all pilots?

This requirement applies to all pilots (and air traffic controllers) who hold, or are required to hold, a CAA medical certificate. This will include all private pilots, commercial pilot, airline pilots, and air traffic controllers as well as some parachutists, ultra-light pilots, balloonists, glider pilots etc.

Does this requirement apply only to pilots?

No, this provision also applies to air traffic controllers.

But I don't consent to this information being passed to the CAA!

Your doctor has a legal obligation to advise the CAA. This is one of the many public safety obligations of doctors. Your doctor does not require your consent to advise the CAA of the information required under section 27C(3) of the Act.

Do I also have to advise the CAA?

Yes. You also have a legal obligation to advise the CAA (See: "Looking at the law", section 27C(1) overleaf). The fact that your doctor is making a report to the CAA does not remove your obligation to also report. Failure to provide the CAA with the information

required under s27C(1) of the Act is an offence and could lead to prosecution.

If your medical situation needs to be reported to the CAA you also have a legal obligation not to fly, or operate as an air traffic controller. Section 27C(1) of the Act also requires that you not fly (or operate as an air traffic controller) if you have any change in your medical situation, or if you have any previously undetected medical condition, that may interfere with the safe exercise of the privileges to which your medical certificate relates.

Even if you are planning not to fly, as required in s27C(1)(b), you still have a legal obligation to inform the CAA.

I don't agree with this decision. What are my appeal or review options?

Doctors, in general, are subject to a wide variety of review and appeal facilities. Your doctor is required to tell you that they will be advising the CAA and should explain their reasons to you. If you do not agree with your doctor's decision to advise the CAA and wish to have this decision reviewed then you should ask your doctor, or medical staff at the CAA Central Medical Unit, about the review and appeal options that are available.

If you do not agree with any subsequent decision that the CAA may make, in response to the information provided by your doctor, you may elect to pursue: review by the Convener; District Court Appeal; and / or Judicial Review. Information concerning these appeal / review options can be obtained from the medical section of the CAA website (www.caa.govt.nz) under the heading of "Review of medical certification decisions".

Contact details for the CAA Central Medical Unit are provided below.

Looking at the law

27C Changes in medical condition of a licence holder

Your doctor's obligations are contained within the Civil Aviation Act 1990. Specifically section 27C(3) of this Act states:

- (3) Subject to any directions that the Director may issue under section 27G(1)(b), 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.

Your obligations, as a licence holder as defined in the Act, are contained within section 27C(1) which states:

- (1) Subject to any directions that the Director may issue under section 27G(1)(b), if a licence holder is aware of, or has reasonable grounds to suspect, any change in his or her medical condition or the existence of any previously undetected medical condition that may interfere with the safe exercise of the privileges to which his or her medical certificate relates, the licence holder—
- (a) must advise the Director of the change as soon as practicable; and
 - (b) may not exercise the privileges to which the licence holder's medical certificate relates.

A **licence holder** is defined in section 27A of the Act as:

licence holder means a person who—

- (a) holds an aviation document or is a pilot; and
- (b) holds, or is required under the rules to hold, a medical certificate.

CAA Medical Help Desk

Tel: +64-4-560 9466 Fax: +64-4-560 9470

Email: med@caa.govt.nz web site: www.caa.govt.nz

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