

## Advice for health professionals

All New Zealand registered medical practitioners are required to advise the Director of Civil Aviation if a pilot or air traffic controller has, or may have, any medical condition which may jeopardize the safe exercise of their flying privileges under Schedule 2, clauses 8-9 of the Civil Aviation Act 2023 (see 'Looking at the law' section overleaf).

Statutory reporting obligations and associated protections do not currently apply to other health professionals, such as nurses, counsellors, psychologists, occupational therapists, and physiotherapists.

This information sheet offers advice for health professionals that have concerns about a pilot or air traffic controller's medical condition, which may compromise public safety.

### Privacy and public safety: Am I allowed to report a pilot or air traffic controller?

Yes. Health professionals have a legal obligation to protect patient privacy, yet there are certain circumstances in which matters of public safety override this obligation. Public safety is crucial, and advising the CAA of potentially serious medical conditions among pilots and air traffic controllers can help avoid preventable accidents and fatalities. While Schedule 2, clauses 8-9 reporting obligations do not apply to many health professionals, other legislation can accommodate such reporting.

For instance, Principle 11(f)(i) of the Privacy Act 2020 permits an agency – which includes health professionals and organizations - to disclose patient information to another agency when there are reasonable grounds to believe that this is necessary to prevent or lessen a serious threat to public safety (see 'Looking at the law' section overleaf).

### Should I consult my professional Code of Ethics / Conduct before reporting?

Yes, we encourage health professionals to consult their Code of Ethics and professional Conduct about reporting protocols concerning matters of public safety. Fortunately, many professional Codes allow for reporting under specific circumstances.

For example, many professional Codes state that there are certain exceptions to non-disclosure of personal information and particular circumstances where there is a duty to disclose, including patient or public safety. Professionals must generally seek patient consent to disclose personal information, yet some Codes permit professional judgement about risk to patient or public safety when permission to disclose is denied (e.g. New Zealand Psychologists Code of Ethics, Code of Conduct for Nurses). We therefore advise that professional Codes are consulted before reporting is considered, as there is some variation (see overleaf for examples).

### Who else can I talk to?

We recommend that health professionals also seek advice from a senior colleague or professional organization. We're here to help – so please contact the CAA Medical Unit if you require further clarification, or if we can assist you in any way on this matter.

### What should I report?

There is no definitive list of conditions that should be reported to the CAA, but we have several Medical Information Sheets designed to clarify what should be reported. Generally speaking, you should consider reporting medical conditions which may:

1. result in behavioural changes;

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

## Looking at the law

Privacy Act 2020 contains legislation concerning the limits on disclosure of personal information. Principle 11 states:

An agency that holds personal information shall not disclose the information to a person or body or agency unless the agency believes, on reasonable grounds,—

(f) that the disclosure of the information is necessary to prevent or lessen a serious threat to—

(i) public health or public safety; or

(ii) the life or health of the individual concerned or another individual; or

## ... and some Codes of Ethics / Conduct

Outlined below are excerpts from various Codes of Ethics and Conduct for health professionals, concerning limits of disclosure of personal information.

### Code of Ethics for Psychologists 2002

Principle 1.6.10: Psychologists recognise that there are certain exceptions and/or limitations to non-disclosure of personal information, and particular circumstances where there is a duty to disclose. These are:

(e) Client or public safety: Where a psychologist believes that non-disclosure may endanger a client, research participant or another person but is denied permission to disclose, the psychologist exercises professional judgement in deciding whether to breach confidentiality or not.

Comment: Psychologists should consult with senior colleagues before making their decision. Ultimately, they must be able to justify the decision made.

### Code of Conduct for Nurses 2012

Principle 5.5 Gain consent from the health consumer to disclose information. In the absence of consent a judgement about risk to the health consumer or public safety considerations must be made.

### Code of Ethics for Counsellors 2002, revised 2020

6.2 Exceptions to Confidentiality:

...

c) Exceptions to confidentiality occur when:

- there is serious danger in the immediate or foreseeable future to the client or others,
- the client's competence to make a decision is impaired,
- legal requirements demand that confidential material be revealed,
- responding to a complaint about counselling practice.

(d) Wherever possible, the decision to make an exception to confidentiality is made:

- after seeking the client's co-operation, unless doing so would further compromise the safety of the client or others,
- after consultation with a supervisor.

## Aviation Medicine Team

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