



EASA

European Aviation Safety Agency

Balance between Medical Confidentiality and Public Safety General Update

Francesca Pavesi
EASA Legal Department

Your safety is our mission.

An agency of the European Union





Background

- The **Germanwings accident** reminded the international aviation community that the medical and psychological health of flight crews, is an essential element of aviation safety
- **EASA Task Force** recommended in its final report that “national regulations ensure that an **appropriate balance is found between patient confidentiality and the protection of public safety**” (REC#5a)



REC#5a Confidentiality / public safety

- **The BEA final report on the accident investigation** of March 2016 supports the recommendations made by the EASA task force and it clearly states that “**The process of medical certification of pilots (...) did not succeed in preventing** the co-pilot, who was experiencing mental disorder with psychotic synthons **from exercising the privilege of his licence**. One of the contributing factors highlighted is the “**lack of clear guidelines** in the German regulations on when a threat to public safety outweighs the requirements of medical confidentiality”
- EASA will present **a position paper to the Commissioner of Transport and to the Commissioner for Health and Food safety** on how to address the balance between medical confidentiality and public safety



Important clarification

Pilot medical issues

Aircrew Regulation



Information
sharing
with licensing
authority

Much
of it is
outside
aircrew

%

Outside Aircrew Regulation ?



Outside Aircrew Regulation ?



Outside Aircrew Regulation ?



Preamble

- Medical confidentiality is a **key principle** of medical health care **regulated at national level**
- In **most of the legal systems** of Member States **physicians can lift the medical secrecy** in case of “**imminent danger**”, “**threat to public safety**” and “**substantial public interest**”
- As these **terms are not clearly defined**, physicians generally take a very cautious approach
- **Sanctions** in cases of breach of medical secrecy without just cause are **severe**
- **Guidance is needed** for reporting cases that would affect public safety



- EASA supports the actions and guidance issued by some national medical councils (like the General Medical Council in the UK)
- The GMC provides clear guidance to Physicians on medical confidentiality and on how to make a balance with public safety
- EASA suggests that similar actions should be taken in all MSs



Draft Working Paper: Recommended actions

- The Commission should facilitate the discussion and promote awareness raising campaign:
 - 1) Initially discussion to be tabled at the **commission medical experts groups** (DG SANTE)
 - 2) **Medical Orders/Medical Associations in the MSs** should be addressed
 - 3) The so called **Article 29 working party** (and **EDPB** under GDPR) to issue guidelines to clarify the concept of “substantial public interest” as a legal basis to process medical data under the **data protection regulation**



EASA
European Aviation Safety Agency

Thank you
Questions?

Your safety is our mission.

An agency of the European Union

