REPORT OF THE BOARD OF TRUSTEES

Subject: Medical Reporting for Safety-Sensitive Positions
(Resolution 14-A-16)

Presented by: Gerald E. Harmon, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Edmund R. Donoghue, Jr., MD, Chair)

Board of Trustees Report 8-I-16, “Medical Reporting for Safety Sensitive Positions,” which sought to address Resolution 14-A-16 of the same title, was referred at the 2016 Interim Meeting of the AMA House of Delegates. Testimony indicated that the report content missed the resolution’s original intent. Although there are systems in place to screen pilots and others in safety sensitive positions for serious medical conditions, it was stated that these patients often look for medical care outside of these systems, and subsequently fail to be reported.

The Board of Trustees conferred with the authors to clarify the intent of Resolution 14-A-16. This report alerts physicians that they may have new responsibilities as a result of changes in regulations of the Federal Aviation Administration (FAA) regarding medical certification of pilots. It addresses the implications of these changes for pilot and public safety.

BACKGROUND

Effective May 1, 2017, pilots of certain small aircraft may elect to participate in the FAA’s new “BasicMed” program, which allows any licensed physician to evaluate a pilot’s medical fitness to fly. If pilots meet conditions for participating in BasicMed, they are no longer required to obtain third class medical certification specifically from an FAA-designated Aviation Medical Examiner (AME) [1]. Pilots in the designated category may continue to seek third class medical certification from an aviation medical examiner if they choose.

To be eligible for privileges in BasicMed, pilots must have a valid U.S. driver’s license, have held third class medical certification at some time since July 15, 2006 (which must not have been revoked, suspended or withdrawn), and not have been denied third class certification on their most recent application [2]. The individual must have documented completion of an FAA-approved online medical education course within the past 24 months; have had a physical examination by a licensed physician, who reviewed the FAA’s Comprehensive Medical Examination Checklist completed by the patient, within the past 48 months; and must consent to a National Driver Register check.

Individuals who have a medical history or clinical diagnosis of personality disorder repeatedly manifested by overt acts, psychosis, bipolar disorder, or substance dependence (within the previous two years) must obtain a “special issuance medical certification” from an aviation medical examiner before they may exercise privileges under BasicMed [2]. Similarly, a history or diagnosis of epilepsy or disturbance of consciousness or transient loss of control of nervous system function absent satisfactory medical explanation of cause entails that the individual obtain a special issuance...
medical certification before he or she may exercise privileges under BasicMed. Further these individuals must be under the care of a physician for the condition.

Individuals are prohibited from exercising privileges under BasicMed if their driver’s license has been revoked as a result of the diagnosed condition or if, “in the judgment of the individual’s state-licensed physician,” the individual is unable or “may reasonably be expected to be unable” to safely exercise those privileges as a result of the condition [2].

PILOT SAFETY — PUBLIC SAFETY

The goal of medical certification, for all classes of pilots, is to ensure public safety. Recent aviation incidents, notably the crash of Germanwings Flight 9525 in 2015, which killed 150 passengers and crew, have raised questions about whether oversight of pilots’ medical status and safety to fly is sufficiently rigorous. FAA requirements covering pilots who fly for commercial airlines, i.e., who hold transport pilot certification, or those who hold commercial pilot certification and may fly for hire, are not affected by the regulatory changes that created BasicMed. Even under the more stringent standards governing these classes of pilots there is concern that pilots with potentially impairing medical conditions may be permitted to fly when they are in fact unsafe [3]. These questions form the backdrop to challenges that BasicMed poses for physicians in the U.S.

Medical Certification of Aviators

Aviation Medical Examiners are specifically authorized by the FAA to carry out pilot medical examinations for purposes of protecting the public. To become an AME, physicians must apply to and complete training developed by the Aerospace Medical Education Division of the FAA Civil Aerospace Medical Institute [4]. Prospective AMEs are required to complete online course work as well as four and a half days of in-person training and to complete refresher training every 36 months [4]. Among other objectives, in-person training is intended to:

- Review the latest medical and technical information and clinical examination techniques in the various medical specialty fields that an AME will need to use to assure that aviators meet the medical certification standards for the class of aviator medical certificate applied for [and]
- Recognize the basis for disqualification of the aviator with a medical problem and the conditions necessitating deferral or denial as outlined in Federal Aviation Regulations [5]

In 2012, the Aerospace Medical Association Ad Hoc Working Group on Pilot Mental Health noted that “serious mental health issues involving sudden psychosis are relatively rare, and their onset is difficult to predict,” but that “more attention should be given to mental health issues during the aeromedical assessment of pilots” [6]. The group recommended that “physicians performing aeromedical assessments receive additional periodic training in aviation mental health issues” [6]. In a letter to the FAA of September 2015 following the report on the Germanwings incident, the working group reiterated its recommendation that more attention be given “to less serious and more common mental health conditions,” including grief, psychosocial stress, depression, anxiety, panic disorders, personality disorders, and substance misuse/abuse, noting that these conditions “show patterns that facilitate early detection, and have proven effective treatment strategies” [6,7].

The working group also reiterated and expanded on its previous recommendation to create a “safe zone” to encourage frank discussion of mental health issues [6], urging that “methods be used to build rapport and trust with the pilot in a nonthreatening environment” [7]. It also more explicitly identified barriers to frank discussion, noting that pilots are “highly independent, value control, and fear losing their medical certification.” The 2015 guidelines reiterated the call for additional
training in aviation mental health issues for physicians who conduct aeromedical assessments, and called for training to include guidance for when the aeromedical examiner should consult with or refer the pilot to “a mental health specialist provider or other aeromedical resource.”

The Challenge for Non-AME Physicians

When AMEs who are under contract to commercial air carriers or other commercial entities conduct examinations of pilot-employees, they are required to report their findings to the pilot’s employer as well as to the FAA. When they conduct examinations of aviator applicants independently (i.e., not while under contract to the employer), AMEs must report all findings to the FAA without fail. In the latter situation, individuals who do not receive medical certification are expected to voluntarily refrain from piloting aircraft pending further evaluation by FAA medical experts. On a few occasions the aviator applicants are permanently restricted from medical certification and cannot legally fly any aircraft.

A pilot exercising the privileges of BasicMed may be examined by any physician licensed by any U.S. state, territory or possession. The physician is required to report potentially impairing conditions in keeping with state regulations governing the issuance of motor vehicle licenses. The examining physician must review the individual’s completed FAA Comprehensive Medical Examination Checklist with the pilot, but is not required to report to the FAA.

Questions have been raised about how well this process protects both pilots and the public interest. Non-AME physicians may not be adequately prepared to fulfill this new responsibility. Non-AME physicians need to be made aware of the responsibility itself and of resources available to them, including consulting with or referring a patient to a regional Aviation Medical Examiner.

In addition, laws governing reporting of medical conditions that may impair an individual’s ability to operate a motor vehicle safely vary from state to state. Whether pilots who are eligible for privileges under BasicMed, but may be impaired, present a greater risk to safety than drivers who may be impaired is not necessarily at issue. What is of concern are data suggesting that even in jurisdictions where physicians are required to report potentially impairing conditions for motor vehicle operators they do not uniformly do so [8].

Confidentiality & Trust

Effective patient-physician relationships require that patients be willing to share sensitive information with their physicians. Patients must be able to trust that information they give to their physicians in confidence will be protected, and physicians have a corresponding duty to protect the confidentiality of patients’ personal information [9–12]. Patients who fear the consequences of disclosure, particularly disclosure of stigmatizing conditions, may be reluctant to seek treatment. However, the right to confidentiality is not without limits. In many situations, physicians may be required to breach confidentiality for purposes of protecting the health or safety of the community, as in mandatory reporting of infectious disease to public health authorities or required reporting of potentially impaired drivers [13].

Physicians may also disclose personal health information without patients’ consent when in the physician’s professional judgment there is a reasonably probability of serious harm to the patient or serious harm to other identifiable individual(s) [15]. Industry-employed physicians and independent medical examiners may likewise disclose to third parties [16]. In all instances, however, physicians are expected to restrict disclosure to the minimum information necessary for
the specific purpose at hand and, whenever feasible, to notify the patient in advance of the
disclosure.

RECOMMENDATION

In light of these considerations, the Board of Trustees recommends that the following be adopted
and the reminder of this report be filed:

1. That our American Medical Association (AMA) promote awareness among all licensed
physicians of the safety implications of mental health and other potentially impairing
conditions for their patients who are aviator. Physicians need to be aware that for some patients
the FAA’s BasicMed program now makes the treating physician a gatekeeper for pilot and
public safety. Physicians who are not FAA Aviation Medical Examiners should be educated
about when to seek guidance from colleagues with aeromedical expertise. Physicians should
also recognize that the range of mental health conditions in particular that may compromise an
aviator’s ability to fly safely is more extensive than the specific conditions identified in the
FAA Comprehensive Medical Examination Checklist. (New HOD Policy)

2. That our AMA urge physicians to screen routinely for factors that may compromise pilot safety
by the least intrusive means reasonable and take steps with the patient to mitigate identified
risks. Physicians should be encouraged to consult with or refer the patient to the appropriate
FAA Aviation Medical Examiner or FAA Regional Flight Surgeon. (New HOD Policy)

3. That our AMA advocate for adoption of a uniform mechanism for reporting aviators who have
potentially compromising medical conditions. (New HOD Policy)

4. That the Council on Ethical and Judicial Affairs be encouraged to review implications for
existing ethics guidance in light of the FAA’s alternative requirements for pilot physical
examination and education codified in BasicMed. (New HOD Policy)

Fiscal Note: Less than $1000.
REFERENCES


