

Privacy Problems Arise With Customs Inspection

International Scrutiny Leads to Alarms Going Off in OKC

Recently, a female relative of an international aviation medical examiner entered the United States through Customs, and inspectors discovered a packet of completed FAA examinations (the original Form 8500-8's) in her possession. There were 12 examinations with first-class airmen from several European countries and several from the U.S.)

Fortunately, the customs officials made copies of all of them and passed them along to the Flight Standards District Office in that area. We were then notified the next morning. The story that the woman gave was that since the mail delivery was so slow in her country, several local AMEs gave her these examinations to mail when she came over to visit in the States.

Certification Update

Information About Current Issues



By Warren S. Silberman, DO, MPH

Privacy Act

For the benefit of the international AMEs and those of you here in the USA, we have regulations guiding our treatment of medical records. The basis of these protections is the Privacy Act. Perhaps our workshops do not adequately teach the principles of the Privacy Act, so here it is in a nutshell (see sidebar below):

THE PRIVACY ACT

Broadly stated, the purpose of the Privacy Act is to balance the government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of their privacy stemming from federal agencies' collection, maintenance, use, and disclosure of personal information about them. The historical context of the Act is important to an understanding of its remedial purposes: In 1974, Congress was concerned with curbing the illegal surveillance and investigation of individuals by federal agencies that had been exposed during the Watergate scandal; it was also concerned with potential abuses presented by the government's increasing use of computers to store and retrieve personal data by means of a universal identifier -- such as an individual's social security number. The Act focuses on four basic policy objectives:

- (1) To restrict disclosure of personally identifiable records maintained by agencies.
- (2) To grant individuals increased rights of access to agency records maintained on themselves.
- (3) To grant individuals the right to seek amendment of agency records maintained on themselves upon a showing that the records are not accurate, relevant, timely, or complete.
- (4) To establish a code of "fair information practices" which requires agencies to comply with statutory norms for collection, maintenance, and dissemination of records. (Source: Privacy Act: www.justice.gov/opcl/1974polobj.htm)

How this act applies to our FAA medical records is that the FAA "owns" the FAA medical examination Form 8500-8. When you work on a hard-copy medical examination, that is like signing a blank check! The airman has a "right" to know what is being written on that exam form. He/she signs Block #20, which states that everything above that is true and correct, and for those airmen, it gives the FAA permission to search the National Driver Registry for DUI offenses. As the AME who completes the examination, you should not give out an airman's medical information without the airman's permission (and I would get this permission in writing).

In the case example above, it may have been different if the woman had been one of the administrative employees or nurses of the AMEs and carried a written document from the AME that explained what she was doing with those examinations. Also, the examinations should have been in a sealed envelope (it turns out they were, but the customs agents opened it).

We were concerned that the examinations could have been modified or perhaps even stolen from the AMEs' offices. In this case, there was no way, without comparing each examination to the electronically transmitted version (the examinations had not been transmitted at that point) to know that the examinations had not been modified. I trust that Aerospace Medical Education would understand that the mail service in many countries to the U.S. is slow and forgive any delays.

As long as you have electronically transmitted the examination, you protect the airman against a ramp check by a Flight Standards Safety Inspector. I am not sure that you are aware that all of the September 11, 2001 terrorists did have FAA medical examinations.

On another point to make, I have heard stories that, when airmen asked AMEs for a copy of their examination, they refused to do so. Recall that the

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third copy of the current 8500-8 is a copy of the medical history of the current examination. It was created for you to give to the airmen so they can recall during their next visit what their responses had been. Also, it is perfectly “legal” to give the airman a copy of the physical examination portion of the examination. The FAA, though, is the “true system of airman medical records,” and should the airman need what we call a “certified true copy” of medical records, that can only be accomplished by the AMCD in Oklahoma City. You may not give out an airman medical examination, even a copy, to anyone without written permission (preferably, for your protection) of the individual.

To finish the story, one of the international AMEs sent us an explanatory E-mail, so we called off the investigation, and the airman medical examinations were transmitted. Later that week, the examinations arrived here in Oklahoma City and were scanned into the airmen’s medical case files.

Now let’s get back to our “What Would the FAA Do?” for medical conditions not mentioned in the *Online Guide for Aviation Medical Examiners*.

Tiger Team from page 1

Pacific Regional Flight Surgeon; **Stephen Griswold**, Deputy Western Pacific Regional Flight Surgeon; **Paul Clark**, New England Regional Flight Surgeon; **Chris Taylor**, Northwest Mountain Regional Deputy Flight Surgeon **Michael Jordan**, Long Island Center

What Would the FAA Do?

Depression. I am not going to get into a discussion of potentially granting medical certification to airmen taking selective serotonin uptake inhibitors (SSRIs). We have yet to receive permission to do so. What I am going to discuss is the very meager documentation that we get from physicians who treat an airman for depression and are requested to provide us with medical information. The fact that an airman was taking an SSRI and now has been off the medication for the required 90 days and doing well is not enough! We need to know why the airman was placed on the medication, the duration, and what were the symptoms at the time therapy was initiated. We would also appreciate a statement as to whether the airman had any suicidal thoughts or actions. All of these facts will influence our determination.

Orthopedic Surgical Procedures

Herniated Nucleus Pulposus: Pain and neurologic sequelae of a disc extrusion would be disqualifying until the airman is without these symptoms, taking non-narcotic pain relief, can sit for longer periods, and has strength enough to manipulate the rudder pedals or, in the case of a cervical nerve root, the flight controls. Once asymptomatic, the airman or you as the AME can submit a request for clearance.

Rotator Cuff Surgery. Much the same goes here. As one who may have had such a procedure, you know that postoperative the shoulder is immobilized in an elaborate sling device. Once again, until the sling is removed, the airman has full range of motion and adequate strength and is no longer taking analgesic medications (the narcotic variety and tramadol are also unacceptable); he/she must be grounded. This condition will not require an authorization for special issuance, and you may issue if they provide us with the documentation. The same goes for herniated nucleus pulposus (above).

Total Joint Replacement. The FAA allows all types of joint replacement. Generally, once we receive all the proper documentation, an authorization for special issuance is not required. We need to know why the joint was replaced and when the procedure was done (provide us the Operative report). When the treating physician and the airman feel he can return to flying, the FAA needs to know the range of motion and strength of the involved joint. It would be ideal if whoever generates this report addresses whether the airman can function in the aviation environment. As mentioned above, the airman cannot be taking any analgesics on a regular basis.



Flight Surgeon; **Harriet Lester**, Eastern Deputy Flight Surgeon; **Dominick Zito**, Eastern Regional Deputy Flight Surgeon; and AMCD Medical Officers **Arnold Angelici**, **Roger Bisson**, **Bill Mills**, **Benton Zwart**, **Richard Carter**, and **Steve Schwendeman**.

Dr. Silberman directed all elements of the team, as well as working cases. He also used the Tiger Team experience as an educational opportunity for visiting Colombian international residents in Aerospace Medicine **Angela Gomez**, **Diego Garcia**, and **Gonzalo Mendez**.

This intensive, five-day effort highlights the FAA’s commitment to improving its safety oversight of airman medical certification. The virtual Tiger Team generated 650 medical review decisions for airmen pending needed medical authorizations to fly. The entire team cleared 1,217 airmen. →

TIGER TEAM

The term *Tiger Team* refers to governmental agencies designating an elite team of highly qualified, experienced experts to tackle a problem of critical significance that is time sensitive. This project emphasizes consistent application of medical certification guidelines and the integration of medical certification standards. The continued telephonic and online interaction of Regional Flight Surgeons and AMCD medical officers created a professional atmosphere where the certification objective was high-quality, expedited service for the airmen.