

We are entering the fourth month of the FAA's disclosure grace period, providing a safeguard against enforcement actions for pilots who come forward with previously unreported use of certain antidepressant medications. In the past, under FARs 67.107(c), 67.207(c), and 67.307(c) and 67.113(c), 67.213(c) and 67.313(c), the FAA has held that a diagnosis of depression and use of psychotropic medication was medically disqualifying.

On April 5, 2010 the FAA began considering the special issuance of medical certificates for pilots taking medications for mild to moderate depression, a condition that previously barred them from all flying duties. With a predicted 10% of the population dealing with depression, "We need to change the culture and remove the stigma associated with depression. Pilots should be able to get the medical treatment they need so they can safely perform their duties," according to FAA Administrator Randy Babbitt.

The new FAA policy is limited to four antidepressant medications, specifically Fluoxetine (Prozac), Sertraline (Zoloft), Citalopram (Celexa), or Escitalopram (Lexapro). This is a huge change from the FAA's general policy which was "AMEs should use caution in certifying airmen with vague psychological signs, particularly when the use of this group of antidepressants is drastically increasing in the society". See the FAA's Office of Aerospace Medicine's July 2007 report, Selective Serotonin Reuptake Inhibitors: Medical History of Fatally Injured Aviation Accident Pilots.

Previously, the FAA held that bereavement, dysthymic and minor depression were to be treated as something needing a FAA determination unless the condition was stable, resolved, without recurrent episodes and with no associated disturbance of thought. The pilot had to have used psychotropic medication(s) for less than 6 months and been off them for 3 months. Guide for Aviation Medical Examiners Decision Considerations . Item 47. Psychiatric Conditions.

What happens when a pilot discloses

that he or she has been treated for depression without taking one of the four drugs? The pilot will be grounded until all symptoms of the psychiatric condition being treated are improved by the single medication and the pilot is stable for 12 months. Those already taking the drug and have not yet reported it should be able to fly within a few months of reporting.

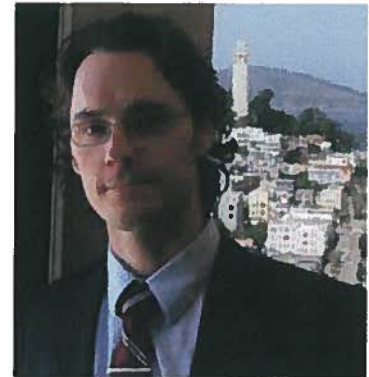
The FAA will require a consultation status report from the treating psychiatrist, with follow ups, a written statement from the pilot describing his or her history of antidepressant use and mental health status, a neurocognitive psychological report, and an evaluation from a Human Intervention and Motivation study (HIMS)-trained AME who has reviewed the reports and recommends a special-issuance medical certificate.

This exclusion is not an "open pass" for pilots. their medical certificate will remain special issuance so long as they remain on the medication. The pilot will continue to need annual HIMS AME visits and must see a psychiatrist every six months.

There is a caveat, the FAA policy is confined to depression. It does not extend to those who are merely consulting a therapist (e.g., for anxiety) even though there is no clinical diagnosis of depression. A pilot will not be allowed to fly while undergoing treatment. Once the treatment is complete, the pilot may return to flying. This is unfortunate as some people simply prefer talking to a professional about aspects of their life they aren't otherwise comfortable disclosing to family and friends.

Penalties

While the FAA will not take action against a pilot who discloses his depression or treatment within the 6 month period, there is no immunity from criminal prosecution under 18 U.S.C 1001 for making materially false, fictitious, or fraudulent statements or entry on the medical application. Immunity can only be offered by the Department of Justice (DOJ). However, the FAA and the Department of Transportation's Office of



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Inspector General (DOT OIG), the office through which the FAA makes referrals for possible criminal prosecution, have agreed that the FAA will not refer cases of apparent intentional falsification to the DOT OIG for criminal investigation or prosecution.

Also, if an applicant falsifies any of the required information regarding their treatment or diagnosis on an application during or after the grace period, the FAA may take enforcement action based on that application and the previously falsified applications.

It will be interesting to see what other psychiatric and psychological conditions and medications will be considered in the future as the FAA gains experience and data under the new policy. DO NOT FORGET this grace period ends at midnight, September 30, 2010. ■