



Wednesday, October 27, 2021

From: Gregory L. Kirk, MD
Aviation Psychiatry, LLC
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Advisory about Records from a Psychiatrist

Dear Aviator

Mental health records have special rules and require special handling. The guide will help you and your mental health professionals understand why a review of your full record is the gold standard before your case goes to the FAA. Everything in the letter is important, so please read it carefully and ask questions if you have any.

You can also print this letter, give it to your therapist, or submit to your clinic's medical records department.

Delivery of Records

I receive all mail, even for Las Vegas clients, in Denver at:

Aviation Psychiatry, LLC
Gregory L. Kirk, MD
2036 East 17th Avenue
Denver, Colorado, 80206

Emailed records should be sent to:

gregkirk@avipsy-secure.org

I cannot receive records by fax.





Treatment records should come directly to me from the provider, not through the pilot. If the file comes through a non-medical intermediary, the file hypothetically could be altered and this limits its usefulness as evidence. Some medical records systems allow the client to print medical records at home. Not only would this break the chain of custody, most systems do not allow a client to access mental health records in a chart with self-printing functions.

Scope of your Records Request

You should request the entire file, not a type- or date-limited subset. Requesting the entire records ensures that no critical component of the safety assessment has been overlooked or ignored.

If you have ever visited with a psychiatrist,¹ please request the entire chart to include these items:

- Individual counseling notes, including psychotherapy notes
- Psychiatric medication management notes
- Complete prescribing record
- Psychological test results and reports, if any
- Notes that include any and all information about the use of drugs or alcohol
- Intake assessment notes

HIPAA and Psychotherapy Record Protections

HIPAA rules give special protections to psychotherapy records. Among the protections is that a therapist can refuse to release a psychotherapy file, without giving you a reason, unless a valid court order compels a release of the record. To address a few common concerns you or your therapist might have, please know that:

The FAA advisory, stated above, specifically says that the psychiatrist must review treatment notes (not summaries) from your counseling provider.

A summary of treatment, whether by a letter or phone call, most of the time fails to meet the "sufficient detail" standard as described in the FAA's specification sheet.

¹ psychiatrists are medical doctors, either M.D.s or D.O.s



A therapist's summary letter, which by definition as a summary of a record, highlights some content and excludes other information, unwittingly places the therapist as a decision maker in a public safety assessment. By contrast, releasing the file without restrictions keeps the responsibility for aeromedical safety assessments focused on the aviation psychiatrist.

The records have the same HIPAA psychotherapy protections when held in this office as when kept by the originator. The file can be released only with your written consent or a court order. If your therapist asks that I not release the file to you, in order to preserve the therapeutic alliance between you and your therapist, I have an ethical obligation to honor that request and would not release the file to you without a court order.

I also have an ethical obligation to de-identify my report so that the assessment does not reveal protected health information (PHI) of others. For example, I am not allowed to quote something from the psychotherapy record that inadvertently identifies any other person, such as a spouse, child, or companion.

An online version of this document can be found under the appropriate tab at:

<https://www.aviationpsychiatry.com/records/mentalhealth>

Respectfully,

Gregory L. Kirk, MD, SAP, HFACS
Director, Aviation Psychiatry, LLC
Licensed in Colorado, Utah, Nevada, and Arizona