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Welcome and thank you for joining us for today's Aviation Webinar Series. Our topic is **“The 2021 Aviation Roundtable”** We have just a few announcements before we get started.

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2021 Aviation Roundtable – Privacy Considerations in the Aviation Industry

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Privacy and Vaccines - Confidentiality

- The Health Insurance Portability and Accountability Act (“HIPAA”), contained a privacy rule regarding disclosure of “protected health information”
- HIPAA only applies to HIPAA-covered entities – healthcare providers, health plans, and healthcare clearinghouses – and their business associates.
- Privacy concerns do arise under the EEOC and its enforcement of the ADA:
 - The ADA requires an employer to maintain the confidentiality of employee medical information, such as documentation or other confirmation of COVID-19 vaccination. This ADA confidentiality requirement applies regardless of where the employee gets the vaccination. Although the EEO laws themselves do not prevent employers from requiring employees to bring in documentation or other confirmation of vaccination, this information, like all medical information, must be kept confidential and stored separately from the employee’s personnel files under the ADA.



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Privacy and Vaccines – Disclosure to Customers

- ADA (Americans with Disabilities Act) prohibits employers from disclosing an employee's medical information to a customer, visitor, or the public
- Making employee/crewmember vaccine status could lead to issues
 - For example, an unvaccinated pilot might allege unequal treatment on the basis of their unvaccinated status, which could be because of, for example:
 - Disability/medical condition
 - Religious objection
- Statistical information about those who have been vaccinated, without any employee-specific information, is not confidential, and may be disclosed.
 - “Although we can't disclose the vaccination status of any particular pilot, 80% of our pilots are fully vaccinated” or “all of our pilots and crew members have been vaccinated” would probably be okay.



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CLE Code #1

- Privacy



Privacy and PRIA

- Pilot Records Improvement Act of 1996 (PRIA) requires Air Carriers, Operating Certificate holders, and certain Corporate Flight Departments to
- PRIA guidance updated on June 28, 2021
- 14 CFR Part 111 is added to the CFR effective September 8, 2021
- As of December 7, 2021, all air carriers and operators required to review records in accordance with PRIA and/or part 111 must use the PRD to obtain the related FAA records. Submissions of FAA Form 8060-10 after that date will no longer be accepted



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Privacy and PRIA

- PRD Contains:
 - Name and current address
 - Airman Certificate Information
 - Medical Certificate class, limitations, and date of issuance (if applicable)
 - Enforcement History (if applicable)
 - Accident / Incident History (if applicable)
 - Previous aviation employers (if entered by the airman into the PRD)
 - Date of last NDR request (if entered by the airman into the PRD)
- Access to the PRD must be overseen by someone in a “responsible management position”



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Privacy and PRIA

- **§111.30 Prohibited access and use.**
- (c) Each person that accesses the PRD to retrieve a pilot's records must protect the confidentiality of those records and the privacy of the pilot as to those records.
 - Pilot must give written consent to consult his or her records in the PRD
 - No person may report any pilot record for inclusion in the PRD that was reported by any individual as part of any approved Voluntary Safety Reporting Program for which the FAA has designated reported information as protected in accordance with part 193 of this chapter
- As required by § 111.30, company personnel must take appropriate action to protect the privacy of the pilot and the confidentiality of the records, as well 6/28/21 AC 120-68J 2-17 as ensure that the information contained in the database is not divulged to anyone not directly involved in the hiring decision, with the exception of an FAA inspector. T



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CLE Code #2

- Vaccine



Privacy and Outside Counsel

- Law Firm Data breaches
 - Privileged Information
 - Work Product vital to cases
- Ransomware and Client Files
 - Inability to perform work that needs to be done
 - Missed Filing deadlines
- COVID and Remote Working – Additional Risks
- Are you vetting your firms for cyber-risks
 - Robust data recovery and backup-systems
 - Training of all personnel
 - Simulated Attacks
 - SMS type approach to risk evaluation, training and drills
 - Frequent updates and staying on top of potential risks before they happen (e.g. Microsoft Print Queue exploit)



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Save the Date for the 2022 Aviation Symposium

February 1-3, 2022



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Thank You

If you have any questions, please contact us:

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