



E26 Medical Liabilities of the French Physician Passenger During a Commercial Air Flight

Fabrice Dedouit, MD, PhD, Service de Médecine Légale, Hôpital de Rangueil, 1 avenue du Professeur Jean Poulhès, TSA 50032, 31059 Toulouse Cedex 9, France; Gilles Tournel, MD, PhD, Institut de Médecine Légale de Lille, 1, place de Verdun, Faculté de Médecine, Lille, 59000, France; Philippe Barguin, Service Médical des Aéroports de Paris, Terminal F, Roissy-Charles de Gaulle, 95711, France; and Anne Becart-Robert, DDS, Valéry Hedouin, MD, PhD, and Didier Gosset, MD, PhD, Institut de Médecine Légale de Lille, 1, place de Verdun, Faculté de Médecine, Lille, 59000, France*

The French physician passenger (and maybe the international physician passenger) who often travels on a commercial air flight should be aware of the risks encountered if the physician does not respond to the well-known call "Is there a physician on board?" or if the physician decides to assist a sick passenger.

Two billion passengers travel each year on commercial air flights. More elderly people, some with preexisting physical conditions are taking

to the air and with the anticipated growth of air travel. Likewise, in-flight illnesses and injuries are expected to increase as well. Even if in-flight medical events and deaths are still uncommon, physician passengers are occasionally called upon to render care.

According to an "Air France" study conducted for two years, one medical event occurs for 20,000 passengers, with one death for every three million passengers (this represents 20 deaths during the study). Among these 20 deaths, seven involved chronically sick passengers and were foreseeable; 13 were not foreseeable and resulted in one unexpected death for five millions travellers. During these two years, 38 aircraft diversions were required. In 89.6% of the cases, a physician was on board and looked after the sick passenger. Medical events during commercial aircraft happen more frequently aboard long distance flights (80% of the medical events). The authors will review the main common medical events.

The type of medical material available on board will be described. The principle of a ground-based medical assistance will be explained. When a medical event occurs aboard an aircraft and the captain or a crew member calls for a physician, two possibilities are presented; either the physician decides to assist the sick passenger or not. In the cases researched here, the various liabilities will be studied.

What are the responsibilities of the French physician passenger if he/she does not respond to the call of a medical event aboard an aircraft? Are there different possibilities according to the passenger number on the plane, the country flown over, or the nationality of the sick passenger? What are the different sanctions encountered by the French physician passenger who did not respond to the emergency call? Is the French physician passenger condemnable in a foreign country? Is the physician diploma universally accepted? What are the responsibilities of the physician passenger providing assistance to a sick passenger?

The different responsibilities of the French physician passenger will be described and explained. Civil, penal, and ordinal responsibilities are applicable in this case. The authors will answer the many questions: Does the civil responsibility depend on contractual right or tort-based right? In which cases does the wrong exist? May the French physician passenger be paid? Does the air carrier company have an assurance which protects the physician passenger? Have the country of citizenship of the plaintiff or defendant also have jurisdiction? Must the French physician passenger be a specialist of the illness the patient is suffering from? The authors will respond to these questions with the help of the Tokyo Convention, the Warsaw Convention, the French legal code and the French deontology code.

The intervention of the physician passenger may be interpreted as conducting business as a quasi-contract or agent of the air carrier company. These possibilities will be detailed and discussed. The legal responsibility of the French physician passenger in cases of neglect as well as in cases of involuntary or voluntary manslaughter, unintentional injuries, and assault, will also be reviewed. The types of infractions for a physician which have penal consequences will be explained. Lastly the consequences of physician passenger looking after a sick passenger without the authorization of a crewmember or the aircraft captain will be researched.

Flight, Physician, Responsibility