

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**ENFORCEMENT NOTICE
REGARDING DENYING BOARDING BY AIRLINES
OF INDIVIDUALS SUSPECTED OF HAVING CORONAVIRUS**

The U.S. Department of Transportation's Office of Aviation Enforcement and Proceedings' (Enforcement Office), a unit within the Office of the General Counsel, regulates whether airlines may limit access to transportation because a passenger has a communicable disease. The Enforcement Office is issuing this notice to advise the public that airlines may screen passengers during the check-in and boarding process for flights to the United States from countries with travel health notices issued by the U.S. Centers for Disease and Control Prevention (CDC) stemming from an outbreak of the 2019 Novel Coronavirus (COVID-19). If passengers seeking to travel from these countries to the United States display symptoms of COVID-19, airlines may deny boarding to them under certain circumstances.

Background

COVID-19 is a respiratory illness caused by a virus identified as "SARS-CoV-2" that was first detected in Wuhan City, Hubei Province, China. The new virus has since expanded globally, and cases of COVID-19 infection have been confirmed in a growing number of countries, including the United States. Although it is unclear how contagious COVID-19 is, person to person transmission is occurring and air travel is a potential means for the spread of COVID-19.

Patients with a laboratory-confirmed COVID-19 infection have reportedly had mild to severe respiratory illness with symptoms of fever, cough, and shortness of breath. Symptoms may appear in as few as 2 days or as long as 14 days after exposure. Many common illnesses can have these same symptoms, however, including influenza (flu) and other types of coronavirus infections.

CDC is closely monitoring the outbreak. As of March 2, 2020, CDC recommends that travelers avoid all nonessential travel to China, South Korea, Iran, and Italy due to widespread, sustained transmission. CDC also recommends that older adults or those who have chronic medical conditions consider postponing travel to Japan due to sustained transmission in that country.

Legal Authority

The Department's regulation implementing the Air Carrier Access Act in 14 CFR Part 382 addresses whether airlines may limit access to transportation on the basis that a passenger has a

communicable disease. Under this regulation¹, airlines may refuse transportation because of a communicable disease if the passenger's condition poses a direct threat to the health or safety of others. A communicable disease poses a direct threat if the condition can be both readily transmitted by casual contact in an aircraft cabin environment and represents a significant health risk.² An airline makes the determination as to whether a person poses a direct threat based on reasonable judgment that relies on current medical knowledge, including directives issued by public health authorities.³

Under DOT's regulation, if a passenger is suspected to have a communicable disease, an airline would require a medical certificate regarding the passenger's condition to determine whether the communicable disease could pose a direct threat to the health or safety of others on the flight.⁴ Although airlines are permitted to deny boarding based on a direct threat assessment, airlines must accept a medical certificate identifying alternative measures for preventing transmission, unless the airline cannot carry out the measures.⁵ A medical certificate is a written statement from the passenger's physician saying that the disease or infection would not, under the present conditions in the particular passenger's case, be communicable to other persons during the normal course of a flight.⁶

An airline may require a passenger with a medical certificate to undergo additional medical review if there is a legitimate reason for believing that there has been a significant adverse change in the passenger's condition since issuance of the medical certificate or that the certificate significantly understates the passenger's risk to the health of other persons on the flight.⁷ The Department's regulation allows airlines to deny boarding for a communicable disease if an adequate medical certificate is not provided or the results of the medical review demonstrate that the passenger would pose a direct threat to the health or safety of others or is likely to be unable to complete the flight without requiring extraordinary medical assistance such as the passenger having apparent difficulty in breathing.⁸

If an airline's action results in the postponement of a passenger's travel, the airline is required to permit the passenger to travel up to 90 days from the date of the postponed travel at the fare that would have applied to the passenger's originally scheduled trip without penalty, or provide a

¹ 14 CFR 382.21.

² 14 CFR 382.21(b)(2).

³ 14 CFR 382.21(b)(1).

⁴ 14 CFR 382.23(c)(1).

⁵ 14 CFR 382.21(c).

⁶ 14 CFR 382.23(c)(2).

⁷ 14 CFR 382.23(d).

⁸ Id.

refund to the passenger for any unused flights.⁹ The passenger determines which of these options to take.¹⁰ Also, any airline that restricts a passenger's travel based on a communicable disease must provide a written explanation to the passenger, if requested, within 10 days of the request.¹¹

Enforcement Policy

The authority to pursue or not to pursue enforcement action against airlines with respect to air travel consumer protection and civil rights requirements lies with the Department's Enforcement Office.

As explained above, airlines may refuse transportation to passengers who pose a direct threat to the health or safety of others because of a communicable disease. The regulation does not specify whether airlines may (or may not) make that assessment through screening passengers directly. Because the regulation is silent on this point, airlines may choose to directly screen passengers seeking to travel to the United States from countries with travel health notices issued by CDC stemming from an outbreak of COVID-19. The screening may consist of checking passengers' temperature for fever prior to boarding or other measures that would help airline personnel determine whether an individual may have symptoms of COVID-19.

If airline personnel screen for fever and the individual seeking to travel is found to have a fever or reports having a fever, then Department's Enforcement Office will use its enforcement discretion not to enforce the requirement that airlines must first ask for a medical certificate before denying boarding to that passenger. The Enforcement Office will use the same enforcement discretion in situations where a passenger has shortness of breath, which is also a symptom of COVID-19. Shortness of breath also indicates that the passenger may not be able to complete the flight without requiring extraordinary medical assistance.

As a matter of prosecutorial discretion, the Enforcement Office will not enforce the requirement that airlines first request a medical certificate before denying boarding to individuals who have been screened by airlines, and are suspected of having COVID-19 on flights to the United States from countries with travel health notices issued by CDC stemming from the COVID-19 epidemic. The potential for SARS-Cov-2 to spread rapidly and cause severe disease and death highlights the fact that obtaining a medical certificate would likely not be sufficient to demonstrate that a passenger is not a direct threat to the health or safety of others. There are no known measures that will prevent the transmission of COVID-19 in a closed environment, such as an aircraft.

The Enforcement Office cautions airlines that this enforcement policy does not change their current obligation to allow passengers to travel at a later time if the passenger's travel had to be postponed, or provide a refund to the passenger for any unused flights. This policy also does not

⁹ 14 CFR 382.21(d).

¹⁰ *Id.*

¹¹ 14 CFR 382.21 (e).

affect the obligations of airlines to provide a written explanation to the passenger of the reason that the passenger's travel was restricted.

Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

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