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REGULATIONS OF THE ADMINISTRATOR

Federal Aviation Agency - Washington, D. C.

Part 406

Certification Procedures

Amendment 13

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Eff. June 15, 1960
(25 Fed.Reg. 3946)

Class III Medical Examinations and Certificates by Medical Examiners

Notice was given in Draft Release No. 59-2 (24 F.R. 2961) that it was proposed to amend Part 406 of the regulations of the Administrator by requiring all applicants for airman medical certificates to be examined by designated medical examiners. Interested persons were afforded opportunity to submit in writing, within thirty days after publication of the notice in the FEDERAL REGISTER on April 17, 1959, such data, views, or comments as they desired. Furthermore, after issuance of a Notice of Public Hearing (24 F.R. 9847 and 25 F.R. 122) a public hearing was held on February 11, 1960, in accordance with section 4(b) of the Administrative Procedure Act.

As pointed out in the draft release, the purpose of the amendment is to reestablish the previous practice that only designated medical examiners may give required airman medical examinations and issue medical certificates of any class. At present, only designated medical examiners may give the examinations for and issue Class I and Class II medical certificates, but examinations for Class III medical certificates may be given, and the certificates issued, by any "competent licensed physician," whether or not he has been designated by the Administrator as a medical examiner. "Competent licensed physician" by its terms means any person who is licensed to practice any part of the healing art in the state of his residence.

The medical certificates issued to this class of airmen have become progressively less meaningful and effective. Through studies conducted by the former Medical Division of the Civil Aeronautics Administration, it had been demonstrated that many Class III airmen are being examined and medically certificated by members of the healing art who, though licensed, are not generally recognized to be properly equipped and qualified to practice aviation medicine.

There is no effective way of exercising administrative control over non-designated medical examiners and there is no assurance that failures to apply the applicable standards will be discovered and corrected. Inevitably and as a consequence thereof, numerous applicants who, in fact, are unable to meet the prescribed standards have been issued medical certificates and have been permitted to exercise the privileges of airmen. A survey has revealed that of the Class III airmen examined by non-designated physicians, 84 percent of those who did not meet the medical standards of the Federal Aviation Agency nevertheless were given certificates by the examining physicians. In the light of the known consequence of the present policy, it appears that this is not in keeping with the intent of Congress in providing in section 314 of the Federal Aviation Act of 1958 for delegation of authority to qualified private persons to perform examinations and issue certificates.

The written views, opinions and comments from associations and private individuals and the oral presentations made at the hearing on February 11, 1960, have been carefully evaluated. Great weight was given to comments received from physicians and medical associations in deference to their professional qualifications which would permit them to assist in prescribing the most effective means by which adequate medical examinations of airmen could be conducted. The majority of individual doctors commenting approved the proposal, as did practically all the medical associations, including the American Medical Association, Aerospace Medical Association, the Flying Physicians Association, and the Civil Aviation Medical Association.

Opposition to the proposed amendment was received from the Aircraft Owners and Pilots Association, other groups, and private individuals. Their arguments appear to fall into two general categories. They contend that there is a lack of correlation between medical defects and accidents and that the proposal, if adopted, would result in great hardship and inconvenience to Class III airmen. In addition, it was charged that the family physician would, by this proposal, be barred from performing airman medical examinations. This charge is made solely by the Aircraft Owners and Pilots Association. No such concern is expressed by the American Medical Association whose membership includes almost all of the country's family physicians. On the contrary, the AMA has endorsed the plan.

Arguments which discount the significance of medical fitness in relation to flying fail to state the circumstances which make such arguments appear persuasive. No comprehensive study of such relationships in civil aviation has been made. There has been no routine medical investigation of civil aircraft accidents. It must therefore be assumed that such medical cause factors as may have been present went undetected. Support for this assumption is provided by the results of very recent investigations in which careful study has been made of the medical aspects of accidents. Evidence of physical incapacity as the primary accident cause has been uncovered in several of these investigations. The routine application of medical techniques in future investigations should provide data which establish more clearly the extent to which medical factors constitute primary or contributing causes. The lack of statistically significant numbers of accidents known to be due to medical deficiencies is, for the above reasons, not persuasive as an argument in opposition to the practice which this amendment would reestablish. In this connection the Agency has

previously announced that it does not intend to be solely responsive to disaster in determining the need for action in regulatory matters.

It is clear that the public safety is directly threatened when the pilot of an aircraft is afflicted by a condition likely to produce sudden incapacity or which interferes with his abilities to perform with safety those duties necessary in the piloting of aircraft. The threat involves occupants on the ground as well as those of the aircraft, as demonstrated by several recent light plane accidents. The unindoctrinated physician cannot be expected to appreciate fully the air safety implications of many of the medical defects ordinarily compatible with the performance of other, non-flying, types of activity. As a consequence, perfectly competent physicians have issued certificates to airmen with coronary heart disease, diabetes requiring insulin, potentially recurrent mental illness. These are conditions which medical specialists, who have carefully studied the involved safety implications, consider incompatible with safe flying. In the absence of a procedure which would permit adequate direction and supervision over the performance of examinations and issuance of medical certificates, it can be expected that airmen who do not meet the medical requirements will continue to receive certificates.

The Federal Aviation Act of 1958, enacted by Congress, directs the Administrator to investigate and determine that an airman applicant is physically able to perform the duties pertaining to the position for which an airman certificate is sought. The Administrator remains responsible for this determination even though it is made by someone else in his name. That this responsibility be satisfactorily discharged requires the Agency to be in a position to exercise administrative direction and supervision over those persons who are acting for it. As indicated above, the technical competence of examining physicians (as established by licensure) has not by itself assured the necessary responsiveness to the Agency's statutory responsibilities. The amendment adopted here is intended to assure a procedure by which the Administrator is able to provide for the necessary administrative direction and supervision in order to carry out his statutory function of properly certificating Class III airmen.

Airmen holding Class III medical certificates are required to be reexamined only each 24 calendar months. There are at present some 2,000 physicians who have been designated for the purpose of examining and issuing medical certificates to airmen. Compared to the combined overall population of licensed practitioners of the healing art, including medical doctors, osteopathic doctors, optometrists, chiropractors, naturopaths, etc., who are now authorized to examine Class III airmen, the designated examiner group is quantitatively small. This lends apparent validity to the contention of inconvenience. However, examiners now designated, and to whom all Class I and Class II airmen are required to report for examination, now examine two-thirds of all active civil pilots. In addition to examining all Class I and Class II airmen, existing designated examiners examine more than 25 percent of active Class III airmen who voluntarily select such examiners.

Medical examiners are physicians in private practice. Examination of airmen for certificates constitutes only a small portion of their professional work. As a consequence, an increase of 50 percent in the numbers of airmen who would be required, by this amendment, to be examined by designated examiners would not constitute an unmanageable addition to their workload and would, therefore, not be expected to affect the availability of an examiner's time for this purpose. Inconvenience to airman applicants would not be expected simply as a consequence of the increased number of applicants to be examined.

Concerning the accessibility of examiners by virtue of their geographic distribution, the Agency has made several comprehensive surveys within the past two years to determine the adequacy of distribution of examiners in relation to areas of general aviation activity. It is apparent that, with few exceptions, the location of examiners is such that there will be minimum inconvenience to Class III airmen in reporting to the offices of designated examiners. An accelerated program for the selection of additional examiners continues which will provide even more complete geographic coverage. Particular attention is given to areas where the need is most apparent.

The charge that family physicians would be excluded as a consequence of adoption of this amendment is false. Many family physicians have heretofore been designated as examiners. The Agency will welcome the application of any family physician who wishes to join us in our efforts to promote air safety. Examiners now designated and those who will be designated in the future will be given courses of training to ensure the most effective dissemination of up-to-date knowledge of aviation medicine concepts and procedures.

Aviation medical examiners, as representatives of the Agency, assume certain responsibilities directly related to the Agency's safety programs. They serve in their communities as the federal government's safety representative where medical matters are concerned. They have public responsibility to ensure that only those applicants physically and mentally able to perform safely are permitted to exercise the privileges of airmen.

In order to discharge properly the duties associated with these responsibilities, examiners must maintain a detailed knowledge and understanding of the subject matter of a manual of instructions, published standards, and periodic directives issued by the Agency. They must maintain familiarity with general medical knowledge applicable to aviation. In addition, they must possess the equipment and facilities necessary to carry out the prescribed examinations. This ordinarily requires that the physician acquire a minimum amount of equipment in addition to that which he would need for the ordinary practice of medicine.

Prior to designation, an examiner is required to show the extent of his medical training and experience and that he is in good standing with his local medical society. In the selection and retention of examiners, due consideration is given to the Agency's desire that its representatives be professionally qualified physicians who enjoy the fullest respect of their associates and members of the public whom they serve in the name of the Administrator.

In consideration of the foregoing, Part 406 of the regulations of the Administrator (14 CFR Part 406) is hereby amended as follows:

1. By amending § 406.1 by adding a new paragraph (e) to contain the definition of a medical examiner to read as follows:

(e) "Aviation medical examiner" shall mean a licensed physician designated by the Administrator to perform appropriate medical examinations and to issue medical certificates prescribed by the Civil Air Regulations.

2. By amending § 406.11(b) by striking the first sentence and substituting in lieu thereof the following: "A medical examination where required will be given by an aviation medical examiner as indicated in this subpart."

3. By amending § 406.12(a)(2) to read as follows:

(2) *Examination.* An examination for this certificate will be given by an aviation medical examiner specifically designated for this purpose. A list of these aviation medical examiners in any area may be obtained by addressing a request to the Regional Manager of the region in which the area is located.

4. By amending § 406.12(b)(2) to read as follows:

(2) *Examination.* An examination for this certificate will be given by an aviation medical examiner. A list of the aviation medical examiners in any area may be obtained by addressing a request to the Regional Manager of the region in which the area is located.

5. By amending § 406.12(c)(2) to read as follows:

(2) *Examination.* An examination for this certificate will be given by an aviation medical examiner. A list of the aviation medical examiners in any area may be obtained by addressing a request to the Regional Manager of the region in which the area is located.

(Secs. 313(a), 314(a), 601, 602, 72 Stat. 752, 754, 775, 776, 49 U.S.C. 1354(a), 1355(a), 1421, 1422)

This amendment shall become effective on June 15, 1960.

Issued in Washington, D.C., on May 3, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60-4148; Filed, May 5, 1960; 8:52 a.m.]

Part 406 last printed December 30, 1950

GPO 89 2713