REGULATIONS OF THE ADMINISTRATOR

Federal Aviation Agency - Washington, D. C.

Part 406

Certification Procedures

Amendment 15

Amendment 15
Eff. September 9, 1960
(25 Fed. Reg. 8713)

Denial of Medical Certificates

Section 314(a) of the Federal Aviation Act of 1958, like predecessor provisions of law, permits the Administrator to delegate to any properly qualified private person, subject to appropriate regulations, supervision and review, the functions of examination for and issuance of certificates under Title VI of the Act.

Section 314(b) further provides: "Any person affected by any action taken by any private person exercising delegated authority may apply for reconsideration of such action by the Administrator."

For many years prior to establishment of this Agency authority had been delegated to private physicians to give medical examinations for and to issue medical certificates. Such authority did not, however, include authority to deny issuance of medical certificates. In cases presenting an applicant's questionable medical qualification the practice has been for the examining physician to withhold issuance of a medical certificate and to refer the case to the appropriate agency officials. Final action of denying issuance of the certificate, when this was the action taken, was then taken by these officials.

This practice was, by operation of law, automatically continued after establishment of this Agency. The efficacy of this procedure has been reviewed as part of the program of the Agency to examine all prior procedures to determine whether any revisions are indicated.

Recent establishment of procedures under which medical examinations may be given only by medical examiners designated by the Agency, now makes it possible to revise the existing procedures to eliminate the defects noted and to establish appropriate procedures for requests for reconsideration. In separate actions, the delegation of authority to medical examiners is being revised to include authority to deny issuance of medical certificates, and § 418.20(a) of the Civil Air Regulations is being amended to reflect this change.

This amendment to Part 406 provides the procedures for requests for reconsideration of actions taken by medical examiners.

It should be noted that the procedures here being provided are in addition to requests for exemptions under section 601(c) of the Act and the other forms of appeal provided by the Act.

Inasmuch as this amendment is procedural only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, Part 406 of the Civil Air Regulations (14 CFR Part 406) is hereby amended, effective on the date of its publication in the FEDERAL REGISTER, by adding a new paragraph (d) to § 406.12 to read as follows:

§ 406.12 Medical certificate.

* * * * *

(d) *Reconsideration of denial of medical certificate.* Any action of an aviation medical examiner denying issuance of a medical certificate shall be subject to reconsideration by the Civil Air Surgeon or his authorized representative. Denial of issuance of a medical certificate by an aviation medical examiner shall not constitute a denial by the Administrator under section 602, Federal Aviation Act of 1958. Any person whose application for issuance of a medical certificate has been denied by an aviation medical examiner may apply for reconsideration of such denial pursuant to section 314(b) of the Federal Aviation Act by application made in writing and addressed to the Civil Air Surgeon, Federal Aviation Agency, Washington 25, D.C., together with a copy addressed to the respective medical examiner. In the event no application for reconsideration is made within thirty days of the action of the aviation medical examiner, the applicant will be deemed to have acquiesced in the action and to have withdrawn his application. Denial by the Civil Air Surgeon, or his representative, upon application for reconsideration, shall constitute a denial by the Administrator under Section 602, Federal Aviation Act.

(Secs. 313(a), 303(d), 314, 602, 72 Stat. 752, 749, 754, 776; 49 U.S.C. 1354(a), 1344(d), 1355, 1422)

Issued in Washington, D.C., on September 6, 1960.

JAMES T. PYLE,
Acting Administrator.

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