

Medical review and appeals procedure

Background

The premature termination of a career on medical grounds is almost unknown in any other profession and pilots should be able to appeal against decisions to deny licensing on these grounds.

In countries where it is not feasible to develop a satisfactory medical appeals procedure within the national boundary and, therefore, where an appeals procedure and consultative service are absent or are inadequate, Member Associations should seek an undertaking from their licensing authority that, before making a decision to deny the renewal of a licence, the State will consider other medical evaluations obtained by other medical authorities in another State mutually agreed to by the Association and the Licensing Authority.

The premature termination of the careers of experienced airline pilots by erroneous diagnoses results in the loss of invaluable experience to the industry. At the same time, it denies the basic right of qualified pilots to continue their profession. The early termination of a career is almost unknown in any other profession and therefore, pilots should be able to appeal against arbitrary decisions to deny licensing on medical grounds.

Open medical review process

An authority should ensure that a licence holder, who has been denied the issue or renewal of a licence, has the privilege of presenting newly acquired personal medical information pertinent to the issue or renewal of that licence at any time such medical information becomes available. This privilege should not be subject to any time limit or restriction and should be exercised through the office of a recognized aviation medical specialist.

Action to be taken by Member Associations in relation to medical appeals

IFALPA suggests the establishment of adequate procedures against medical certification decisions by State Licensing Authorities concerning an individual pilot's fitness to fly. Even in the absence of formal outside appeal bodies, an appeal to the original decision-making body can be made with additional information being provided by the appellant and a request for re-consideration. There are certain principles which should be followed in the preparation of any such appeal and the following information is intended for the use of Member Associations in such cases. To assist individual members experiencing medical certification difficulties, all Associations should be in possession of the current edition of the ICAO Manual of Civil Aviation Medicine, document 8984.

- Particular note should be paid to Part I, Chapter 1 and Chapter 2.
- To achieve success in an appeal, certain principles should be observed. Medical certification of pilots is carried out solely for the purpose of ensuring flight safety. Most of ICAO's medical requirements are phrased in general terms such as "any abnormality which is likely to interfere with the safe operation of an aircraft". Others are of a more specific nature, such as "distant visual acuity ... in each eye separately". Others refer to "within normal limits". It is evident from the foregoing that interpretation is of more significance than the requirement itself. The review of any licensing decision should be on a basis of: is flight safety truly jeopardised in this specific case?
- Medical support for the appellant is of primary importance. The individual's personal physician or aviation medical examiner should be responsible for making referrals to medical specialists and receive their reports. If necessary, specialists' opinion should be sought from recognised centres beyond national boundaries. Reports from specialists should be phrased in medical terms rather than in terms of "fitness to fly", since operational considerations may not be fully appreciated.
- While a formal legal approach is not recommended, the appeal should attempt to differentiate between cases based upon interpretation of the ICAO Standard and those involving flexibility and a licence bearing a waiver to the requirement. A loss of a limb or a finger would not involve "Flexibility", but simply the establishment of compatibility" with the safe handling of an aircraft....".

- Where the case involves an individual who does not meet the ICAO medical requirements, the appeal should be based upon the ICAO privilege of “Flexibility”. This privilege is treated in the ICAO medical requirement under Annex 1, Chapter 1, 1.2.4.9 (and also in the Medical Manual, Part I, Chapter 2) as follows:
- “If the medical standards prescribed in Chapter 6 for a particular licence are not met, the appropriate Medical Assessment shall not be issued or renewed unless the following conditions are fulfilled:
 - ▶ a) accredited medical conclusion indicates that in special circumstances the applicant’s failure to meet any requirement, whether numerical or otherwise, is such that exercise of the privileges of the licence applied for is not likely to jeopardize flight safety;
 - ▶ b) relevant ability, skill and experience of the applicant and operational conditions have been given due consideration; and
 - ▶ c) the licence is endorsed with any special limitation or limitations when the safe performance of the licence holder’s duties is dependent on compliance with such limitation or limitations.”
- A limitation for multi-pilot operations could provide additional reassurance regarding the incapacitation risk.
- While all licensing decisions are in essence “individual”, this aspect becomes doubly significant in cases involving flexibility. The importance of involving “accredited medical conclusion” cannot be over-emphasised. The importance of adequately presenting “flight operation” considerations is also crucial.

Medical Flight Test Reports

“All results of special medical flight tests should be reported to the Licensing Authority. The report should include information about:

- ▶ a) defect, test and recommendations;
- ▶ b) any additional procedures deemed necessary by the examiner;
- ▶ c) any physical attributes of examiners relevant to comparison of their abilities with those of the applicant;
- ▶ d) marginal or simulated marginal conditions for the test;
- ▶ e) the applicant’s susceptibility to distraction caused by simultaneous tasks;
- ▶ f) any necessary operating limitations for the pilot certificate concerned or, alternatively, the fact that no limitations are required.”