Committee Members Present:
Knute Michael Miller, Pilot Fitness Committee Chairman and Past Board President
Captain George Livingstone, Rules and Regulations Committee Chairman and Commissioner
Dave Connolly, Board Vice President
Brigadier General (Ret.) Chester L. Ward, MD
Robert Kosnik, MD
Captain Einar Nyborg, Commissioner

Committee Members Absent:
John Schneider, Commissioner

Staff Present:
Allen Garfinkle, Executive Director
Roma Cristia-Plant, Assistant Director
Dennis Eagan, Board Counsel
Luis Cruz, Associate Governmental Program Analyst

Public Present:
Jennifer Ferrera Schmid, Board President; Captain Joseph Long, Port Agent and San Francisco Bar Pilot (SFBP) President; Ray Paetzold SFBP Business Director and General Counsel.

OPEN MEETING

1. **Call to order and roll call. (Chairman Miller/Livingstone)**

   Pilot Fitness Committee (PFC) Chairman Miller called the meeting to order at 09:43 a.m. Associate Governmental Program Analyst Cruz called the roll and confirmed a quorum.

2. **Approval of the minutes of last Joint Pilot Fitness/Rules and Regulation Committee meeting held on September 13, 2013. (Chairman Miller/Livingstone)**

   Committee members were presented the draft minutes from the meeting held on September 13, 2013. Board Counsel Eagan provided a brief synopsis of past Committee practices when the prior committee meeting was in the distant past, and many of the current sitting committee members did not attend or do not recollect the prior meeting. He stated that Roberts Rules of Order dictate that the minutes can be deemed accurate in these instances if there are no objections, and that others can object in the future if they disagree. PFC Chairman Miller, hearing no objection from the Committee members or the public, deemed the minutes accurate as presented. There was no subsequent vote on the minutes.

3. Report on the pilot and trainee fitness determination process involving the Division of Occupational & Environmental Medicine at the University of California, San Francisco Campus. (Executive Director Garfinkle)

PFC Chairman Miller summarized the fitness determination issues that arose at the last PFC meeting on December 5, 2017 as follows:

- Provide that required fitness determinations and agility testing be completed within an identified time frame prior to the event requiring a fitness determination.
- Provide for a fitness determination for a period of less than one year.
- Relax the qualifications for examining physicians, thereby increasing the potential pool of eligible physicians to aid timely fitness determinations.
- Clarify existing regulations in various particulars and revise both Board forms and references to the United States Coast Guard documents to reflect changes in regulations and updates of forms.

Executive Director Garfinkle briefly reviewed the proposed modifications to the pilot fitness regulations, as outlined in Board staff's report to the Pilot Fitness Committee, dated March 15, 2017. He addressed the following areas:

- Allowance of a conditional fit for duty (CFFD) of less than one year.
- Allow a physician to have less than five years' experience in occupational medicine.
- Allow the initial pilot license to rely on a recent trainee medical assessment and fitness for duty determination.
- Allow an initial pilot license and the annual license renewals to rely on a recent fitness determinations and agility tests.

Vice President Connolly praised the Pilot Fitness Committee for their progression relating to the proposed fitness regulation modifications, and stated that the proposed changes seem reasonable and necessary. He expressed his concern over how to differentiate between a CFFD determination from a standard fit for duty (FFD) determination, and expressed a concern about what would stop a CFFD determination from becoming a perpetual not fit for duty (NFFD) determination.

Dr. Kosnik opined that the current fitness regulations work well for one-year periods, and proposed that instead of issuing CFFD determinations, the Board could grant physicians the ability to issue FFD determinations for periods of less than one year. He explained that the medical examiners for the Department of Motor Vehicles are able to issue driver medical certificates for a period of 3, 6, 9, or 12 months. He stated that physicians may diagnose a new medical issue at the time of the annual medical assessment, and depending on the issue,

are willing to issue a FFD determination, but may want to require a follow up assessment in increments of less than a year while medical tests are being conducted or the condition followed. He stated that current regulations require the pilots and trainees to obtain medical assessments as directed by the Executive Director, and that up to now, the physicians have been relying on this regulatory authority to assess pilots and trainees in periods of less than one year.

Board Counsel Eagan reviewed Board's current FFD determination form and suggested a revision to include a section available to examining physician or Medical Review Officer (MRO) to detail procedures that are to be completed by the pilot or trainee. He noted that Board staff should be aware of and possess a written record of medical information pertaining to the pilot or trainee. Vice President Connolly concurred with Board Counsel Eagan, stating he saw value in the Board obtaining such information.

Executive Director Garfinkle addressed his reluctance to have medical information included on the FFD determination documents. He stated that the Health Insurance Portability and Accountability Act of 1996 (HIPAA) rules and requirements require certain process, procedures and policies for maintaining confidential health information that would be onerous for Board staff to comply with. Assistant Director Cristia-Plant suggested that Board staff could receive a certification from the physicians that the physician has notified the pilot or trainee that additional follow up medical requirements are necessary in CFFD determinations. Dr. Kosnik concurred with Assistant Director Cristia-Plant's suggestion, and noted that most of the time the pilot or trainee does not have to be seen by the physician, but provide additional documentation, primarily follow-up test results.

Dr. Kosnik also commented that, should there be an exceptional medical issue, United States Coast Guard medical waivers are not being provided to the examining physicians.

Commissioner Nyborg described the possibilities of scheduling conflicts that may arise if pilots are required to been seen by a physician in shorter time intervals than one year. Executive Director Garfinkle noted that not all cases would require another full medical assessment. Dr. Kosnik confirmed that he reviews all fitness determinations with the examining physicians to determine if additional consultation is needed. He stated that scheduling may be an area of concern, but that in most cases, the physicians would only require additional documentation from the pilot or trainee.

Port Agent Long stated he wanted to avoid situations where a licensee's license lapses due to administrative or scheduling conflicts. Commissioner Nyborg noted that the SFBP is operating at a critical manning level, and that having pilots that don't receive a FFD determination due to administrative reasons results in a severe manpower issue.

Commissioner Connolly stated that the ideal outcome is to reduce risk and to keep as many pilots working as possible. He stated that once an individual becomes involved with a medical issue, completing the necessary procedures and documentation in a short amount of time can be difficult. Rules and Regulations Committee Chairman Livingstone noted that relaxing the physician experience requirements may aid with the ongoing scheduling issues.

A short discussion ensued regarding the need to review the NFFD and permanent NFFD determination process. Board Counsel Eagan stated that this subject overlaps with issues related to the pilot disability retirement pension issue. Port Agent Long clarified that pilots may receive income from the SFBP for up to 1-year while out on a NFFD status. Dr. Kosnik expressed concern about being requested to determine an exact date when a pilot became permanently not-fit-for-duty, without having appropriate medical data. Port Agent Long suggested that after 90-days from a NFFD determination, the Board could solicit documentation from the pilot's doctor, and require the pilot to visit a Board-appointed physician at the 120-day interval.

Executive Director Garfinkle also discussed the fact that the current regulations require two physician signatures on a NFFD determination, and explained that if the physician and MRO have a difference of opinion, the end result is a NFFD determination. He suggested amending the regulations to require only one physician signature for a NFFD determination as a method to streamline the process, and allow the licensee to be placed on medical leave as soon as possible. Board Counsel Eagan noted the value of having two physicians sign off on the NFFD determination, explaining the possibility of one physician having a change of opinion after discussion with the other.

Assistant Director Cristia-Plant commented that the regulations and/or medical assessment forms should be amended to address the issue of the physicians reporting to the Board or the Incident Review Committee the results of incident drug testing.

Board Counsel Eagan also reminded the Joint Committee that efforts were made when the current fitness regulations were crafted to define the terms such as "fitness determination" and "medical assessment," and noted that a fitness determination could include a medical assessment and/or something else less than a medical assessment.

4. **Discussion and review of proposed amendments to the Board fitness regulations in Title 7, California Code of Regulations sections 217-217.45. Possible Joint Committee recommendation to the Board to propose amendments to regulations in Title 7, California Code of Regulations sections 217-217.45 consistent with the Joint Committee findings. (Board Staff)**

PFC Chairman Miller directed the Committee to review Board Counsel Eagan's Draft Amendments to the Fitness Regulations document, dated January 23, 2018.

Vice President Connolly referred to the use of "fitness determination" and "medical assessment" and stated that definitions should be included for clarity. Mr. Paetzold referred to sections 217.10(a) and 217.15(f) and inquired into the difference between the use of "completed" and "concluded."

The Committee discussed whether using a 90-day time frame would be sufficient timing to satisfy the scheduling and completion requirements of a medical assessment. Executive Director Garfinkle noted that Board staff has been using a 90-day as a benchmark, and that other Commission groups have a timeframe greater than 90-days. Vice President Connolly questioned the practicality of using a 90-day timeframe and suggested using a broader timeframe, possibly 120 days.

Assistant Director Cristia-Plant reviewed section 217.45 of the Board's regulations and inquired if Board staff should receive a notification from the MRO when he or she is unavailable, appointing an acting MRO from among the qualified examining physicians. Dr. Kosnik noted the notification would act as a workaround rather than a solution to the issue.

Port Agent Long noted that the Board's Medical Assessment Guide may need to be amended to mirror the current 90-day medical assessment guideline.

The Committee briefly discussed physician availability and common practices at the University of California, San Francisco Campus. Rules and Regulations Committee Chairman Livingstone and Commissioner Nyborg noted that 28% of the pilots live remotely from the Bay Area, and that scheduling appointments can be difficult for these pilots. PFC Chairman Miller noted that the PFC Committee will identify problem areas and pathways to solutions.

PFC Chairman Miller recapped the outstanding issues and requested a discussion concerning relaxing the qualifications for examining physicians. Executive Director Garfinkle proposed decreasing the requirement from a minimum of 5 years' experience in general occupational medicine or maritime occupational medicine to a minimum of 1 years' experience. Dr. Kosnik stated that although he foresaw no issues with decreasing the minimum experience time for examining physicians, the problem revolves around staffing issues. Dr. Kosnik confirmed for Commissioner Nyborg that there is value is evaluating the minimum qualifications for the Board's Medical Review Officer (MRO).

Assistant Director Cristia-Plant noted that several of the current examining physicians are qualified to be MROs, and that a seamless process needs to be developed for a substitution of MROs, rather than the regulations that require the designation of an acting MRO. Mr. Paetzold comment that the current regulations could impede the designation of an acting MRO if the current MRO becomes incapacitated.

PFC Chairman Miller stated that the Joint Committee should review the proposed regulation amendments, and meet again within the next month to continue the discussion at the next meeting.

5. Public comments on matters not on the agenda.

There were no comments from the public.

6. Schedule the next Joint Committee meeting, and proposals for the next Joint Committee meeting agenda.

PFC Chairman Miller proposed to hold the next Joint Committee meeting in February 2018.

7. Adjournment.

There was no further discussion by the Committee.

MOTION:	Vice President Connolly moved to adjourn the meeting. General Ward seconded the motion.
VOTE:	YES: Livingstone, Miller, Connolly, Kosnik, Nyborg, Ward NO: None.
ACTION:	The motion was approved and the meeting adjourned at 12:05 p.m.

Submitted by:

Allen Garfinkle, Executive Director