

**Board of Pilot Commissioners for the Bays
of San Francisco, San Pablo, and Suisun**

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JOINT COMMITTEE MEETING:
PILOT FITNESS AND RULES AND REGULATIONS COMMITTEES
December 9, 2011
MEETING MINUTES
9:00 a.m.

The Board of Pilot Commissioners Pilot Fitness Committee and Rules and Regulations Committee met jointly on December 9, 2011 at 9:20 a.m. at the Board of Pilot Commissioners office, 660 Davis Street, San Francisco, California. Commissioner Dave Wainwright presided over the meeting with Committee members Commissioner John Cronin, Brigadier General Chester Ward, MD, MPH, and University of California Associate Clinical Professor Dr. Robert Kosnik present. Members of staff present were Executive Director Allen Garfinkle and Board Counsel Dennis Eagan. Present in the audience was Board President Mike Miller, San Francisco Bar Pilots (SFBP) Counsel Ray Paetzold, SFBP Business Manager John Cinderey, San Francisco Bar Pilot Capt. Rick Hurt, and Joint Sunset Committee Consultants Sarah Weaver and Malcom Maclachlan. Business, Transportation and Housing (BTH) Acting Secretary Traci Stevens was represented by BTH Deputy General Counsel Gabor Morocz telephonically from Sacramento.

Open Meeting:

1. Call to Order and Roll Call.

Chairman Wainwright called the meeting to order at 9:20 a.m. Commissioner Cronin was present, establishing a quorum for the Rules and Regulations Committee. Present for the Pilot Fitness Committee were General Ward and Dr. Kosnik. There was no quorum established for the Pilot Fitness Committee.

2. Approval of Joint Rules and Regulations and Pilot Fitness Committee meeting minutes of November 15 and 30, 2011.

As there was no quorum established for the Pilot Fitness Committee, minutes from the November 15 and 30, 2011 meeting were not approved.

3. Review and edit as necessary Draft of Pilot Fitness Regulations, provided by BT&H Deputy Counsel Morocz titled "Board Initiated Physical Examination".

The Committee moved straight to agenda item #4.

4. Review and edit as necessary Draft of Pilot Fitness Regulations, provided by BT&H Deputy General Counsel Morocz titled "Medical Disability Leave".

The Committee the "Medical Disability Leave" draft, renamed Consequences of NFFD or PNFFD Determination. The discussion focused the issues surrounding proper notice and what length of notification period was proper for applicants to the training program. BT & H General Counsel Morocz agreed to research notice provisions already existing in statute or regulations. Board Counsel Eagan agreed to re-draft this section and present at the next meeting.

5. Review and edit as necessary Draft of Pilot Fitness Regulations, provided by BT&H Deputy General Counsel Morocz titled "Appeals of Fitness Determinations".

The Committee began discussions on this with SFBP Counsel Ray Paetzold providing background on the existing appeals process. Mr. Paetzold explained there has never been an appeal to his knowledge, so the process was never put into practice. Chairman Wainwright then introduced Board Counsel Eagan's drafts of the section on appeals, one considering three physicians as the appeal board and one using an Administrative Law Judge as a mediator. There was a prevailing opinion from the Fitness Committee members present that the third physician in the three member panel would have too much power and may not have sufficient expertise. General Counsel Gabor Morocz offered the idea that there may be an existing process in the Administrative Procedures Act that would fit our needs and Board Counsel agreed that may be an option.

Dr. Kosnik made the point that any appellant should have to present their case file, including contrary doctors opinion supporting their appeal when appeal is filed.

SFBP Counsel Ray Paetzol suggested the Committee consider a "reconsideration provision" so that prior to appeal, any adverse recommendation by a physician can be reconsidered prior to appeal, thereby saving time and expense.

6. Review and edit as necessary Draft of Pilot Fitness Regulations, provided by BT&H Deputy General Counsel Morocz titled "Qualification Standards for Board Appointed Physicians; Duties of Physicians".

The Committee has yet to address this agenda item.

7. Review and discuss Release and Authorization of medical information to individuals other than Board appointed physicians, such as medical specialists, Board members or Board staff".

The Committee has yet to address this agenda item.

- 8. Review and discuss what should be included in the “physical examination” referred to item (c) of section titled “Description of Physical Exam” (page 2 of 8 of draft).**

The Committee has yet to address this agenda item.

- 9. Review and discuss definition for Physical Examination and Medical Assessment and where these terms should be included in draft regulations.**

The Committee has yet to address this agenda item.

- 10. Review circumstances where trainee may be found Not Fit for Duty and the various consequences of such a determination.**

The Committee has yet to address this agenda item.

- 11. Public Comments on Matters not on the agenda.**

Joint Sunset Committee Consultant Sarah Weaver offered the comment that she thought the Committee was doing good work.

- 12. Planning agenda items for next committee meeting.**

The Rulemaking Calendar should be added to the next meeting agenda.

- 13. Adjournment.**

This committee adjourned at 11:57 a.m.

Respectfully submitted,



Allen Garfinkle
Executive Director