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From the Federal Air Surgeon's perspective...

What We Know About the New Law and Why We Still Need You

BY JAMES R. FRASER, MD, MPH

As many of you know, on July 15, 2016, President Obama signed a bill to extend FAA Reauthorization until September 30, 2017. The actual law is entitled "FAA Extension, Safety, and Security Act of 2016," which can be found at <https://www.congress.gov/bill/114th-congress/house-bill/636/text?q=%7B%22search%22%3A%5B%22636%22%5D%7D&resultIndex=1>. The bill is a comprehensive law that covers many aspects of FAA operations, but the section that is commonly referred to as the "Pilots Bill of Rights 2" is contained within Section 2307, "Medical Certification of Certain Small Aircraft Pilots." In this bill, Congress included language about an alternative to the requirement for a third-class medical.

Unfortunately, subsequent to passage of this new law, we have had several AMEs resign believing that the FAA would no longer be in need of AMEs to provide third-class medicals. Therefore, the purpose of this article is two-fold. First, I will tell you what we know about the new law. Second, and more important, I will tell you why it is premature to think there will be no

need for AMEs to provide third-class medicals. Although you may have been told there will soon be no need for AMEs to provide third-class medicals, nothing could be further from the truth.

First of all, nothing changes immediately. The Agency has one year from signing, or by July 15, 2017, to finalize the rulemaking. If the rulemaking is not completed within one year, the FAA will not be able to bring enforcement actions against pilots who make a good faith effort to comply with the reforms. Therefore, AAM is working very hard as a part of the rulemaking team to make sure the mitigating strategies are in place before the deadline.

To comply with the congressional language, the rule that we will draft will allow pilots to fly without a third-class medical certificate under the following conditions:

- They must hold a valid U.S. driver's license.
- They must have held a valid FAA medical certificate within ten years prior to July 15, 2016.
- If the airman has never held a medical certificate, then the air-

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(The New Law—continued from page 1)

man will need to get an FAA medical certificate from an AME (one time only.)

- If an airman's regular or special-issuance medical certificate lapsed more than 10 years ago before July 15, 2016, then the airman will need to get an FAA medical certificate from an AME (one time only).
- If an airman develops certain cardiac, neurological, or mental health conditions, then the airman will need a one-time only special issuance for each condition.
- Pilots whose most recent medical certificate has been revoked, suspended, withdrawn, or denied will need to obtain a new medical certificate before they can operate under the new reforms.

The new reforms apply to pilots operating aircraft that weigh up to 6,000 pounds, have up to five passenger seats, and fly up to an altitude of 18,000 feet. Pilots flying under the new law cannot operate for compensation or hire. Many general aviation airmen will still require a third-class medical if they are flying outside of these specified aircraft and flight parameters.

In order to fly under the new law airmen have additional requirements.

- They will need to visit a state-licensed physician at least once every four years and provide their physician with an FAA-generated checklist.
- Their physician will need to certify that he or she has performed an examination and discussed all the items on the checklist, including medications. The physician will be required to certify that he or she is unaware of any medical condi-

tions that, as presently treated, could interfere with the airman's ability to safely operate an aircraft.

- They will need to take a free online aeromedical education course every two years and provide the FAA with an authorization for a search of the National Driver Registry for information pertaining to their driving record.
- They must also provide the FAA a signed statement certifying that they understand that they can't operate an aircraft during any medical deficiency and that they don't know of, or have reason to know of, any medical condition that would prevent them from flying safely.

Although you may have been told there will soon be no need for AMEs to provide third-class medicals, nothing could be further from the truth.

Not surprisingly, I have been contacted by AMEs, physicians that are not AMEs, and airmen that feel the implementation of the new law will be problematic. In particular, they believe that most physicians will be unwilling to certify that the airman is safe to fly.

Our FAA legal colleagues have always told us that, in the event of litigation regarding medical certification, they could not defend an AME individually but would defend the FAA medical certification process. They have told us that any AME following FAA

guidance, in the process of issuing a time-limited medical certificate, would have protection as an FAA designee. Many of those that have contacted me believe that signing off on the new form, without that protection, would pose a significant medico-legal risk that their malpractice providers would be unwilling to accept.

Many of the individuals that have contacted me also believe the insurance industry will soon become involved and will raise the rates for those airmen that elect to fly without a third-class medical, thereby making it a much better deal for airmen to fly with a third-class medical.

Most importantly, I believe most airmen have an excellent relationship with their AME and will be more than willing to maintain this relationship and their third-class medical certification. Keep in mind, with the advent of CACIs, AASIs, and new guidance throughout the *AME Guide* that leverages your training and expertise, ninety-six percent of the airmen that come to see you walk out with a medical certificate. I don't believe that there will be many airmen that will prefer to meet the requirements of the new law in order to fly without a third-class medical.

In summary, I don't know what will happen. We will know much more when the rulemaking team completes the implementing guidance. However, I do know that we need each and every one of you. I hope you will think long and hard if you have any thoughts about resigning, and speak to us first.

Thank you for all that you do for the FAA, the flying public, and the airmen you help keep safe. I will keep you advised.

-Jim

