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Falsification of FAA Airman Medical Certificate Applications by Disability Recipients

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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to testify today regarding falsifications of the Federal Aviation Administration's (FAA's) "Application for Airman Medical Certificate." Pilots must have a valid Airman Medical Certificate before they are allowed to operate an aircraft. Our testimony today is primarily based on an investigation called "Operation Safe Pilot," which we conducted with the Social Security Administration's (SSA's) Office of Inspector General (OIG) and U.S. Attorney Offices (USAOs) in California, with assistance from FAA's Western Pacific Region Flight Surgeon and Chief Counsel offices.

At the outset, it is important to note that while the United States has the most complex aviation system in the world, it also is the safest. Multiple layers of controls in air carrier operations and maintenance processes, along with FAA's oversight, are largely responsible for the extraordinary level of safety that we have seen in the last 5 years.

Fraud committed against FAA's aviation safety programs has been an investigative priority for our office for more than 10 years. During that period we have investigated numerous schemes involving falsified maintenance records, fraudulent certifications for replacement parts, and fraudulently obtained pilot and mechanic certificates.

Operation Safe Pilot was initiated in 2003 consistent with the emphasis we have placed on investigating fraud schemes that impact aviation safety. It was a risk-based, targeted initiative (versus a random sample) based in part on a 2002 investigation conducted by OIG special agents in California. The investigation identified a private pilot who, for about 14 years, had been receiving SSA medical disability payments while at the same time maintaining his FAA-issued Airman Medical Certificate, which is required for issuance of a pilot certificate (aka, license).[1]

This situation did not seem possible to us—someone who represented to FAA that he was medically fit to fly while at the same time claiming medical disability benefits. This appeared to indicate a serious gap between FAA's safety regulatory program and SSA's medical disability program, wherein one or the other program was being defrauded. To determine if this was indicative of a more widespread problem, we began Operation Safe Pilot, looking at a universe of about 40,000

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[1] FAA-issued pilot certificates include: *Airline Transport* (pilots who can serve as pilot-in-command for a scheduled air carrier), *Commercial* (pilots who can fly for compensation or hire, including cargo), *Private* (pilots who fly for pleasure or personal business without accepting compensation), and *Student* (pilots who are being trained by an instructor for the purpose of obtaining their first full operating certificate).

pilots residing in Northern California. These pilots were part of a larger group of more than 600,000 pilots in the United States who held Airman Medical Certificates.

Of these 40,000 pilots, approximately 3,220 were found to be collecting some type of SSA benefits, including disability benefits. In coordination with SSA, FAA, and USAO officials, we focused our efforts on a smaller group of pilots receiving disability benefits and—following consultation with FAA—selected 48 pilots from this smaller group for investigation and potential prosecution, (a) recognizing that the USAOs could pursue at most 50 cases due to their own resource constraints, and (b) focusing on the most serious cases that the USAOs felt warranted criminal prosecution. It is important to note that Operation Safe Pilot was a criminal investigation and that it is not possible to substitute criminal investigations for regulatory enforcement, which we believe is generally the most appropriate way to police Airman Medical Certificate applications.

As a result of Operation Safe Pilot, the USAOs charged 45 of these 48 pilots with making false statements to FAA on their Airman Medical Certificate applications. All 45 pilots either plead guilty or were convicted at trial. Two pilots died during the investigation (both held commercial pilot certificates), one from complications stemming from his undisclosed medical condition and the other from causes that were not conclusively linked to that pilot's undisclosed condition. Prosecution by the USAO against another pilot was declined due to the pilot's severe mental incapacity.

In addition, the National Transportation Safety Board (NTSB) and FAA have documented hundreds of instances where pilots failed to disclose potentially disqualifying medical conditions. We believe such findings, when combined with the results of Operation Safe Pilot, reinforce the need to strengthen oversight of FAA's Airman Medical Certification Program. For example, on June 25, 2007, NTSB issued safety recommendations[2] to FAA identifying examples of pilots involved in accidents who had substance dependence histories, that FAA was or should have been aware of, that were not considered in the medical certification process. Similar to the circumstances identified in Operation Safe Pilot, NTSB's report highlighted problems with undisclosed medical conditions and the fact that other government agencies often have information relevant to FAA's medical certification decision-making process that FAA should access and use.

Mr. Chairman, my testimony today will address three key points essential to any discussion regarding how best to mitigate the safety risks posed by airmen who

[2] NTSB Safety Recommendation report; recommendation numbers A-07-41 through A-07-43.

falsify the Airman Medical Certificate application to conceal disqualifying medical conditions.

- The Airman Medical Certification Program is a key safeguard to ensure pilots are medically fit to fly;
- Operation Safe Pilot disclosed a potential systemic problem that requires greater attention and oversight by FAA; and
- FAA can take several actions to ensure that disabled pilots are not circumventing the medical certification process.

The Airman Medical Certification Program is a Key Safeguard to Ensure Pilots are Medically Fit to Fly

FAA requires that each pilot have a valid medical certificate before being allowed to operate an aircraft. To receive a medical certificate, pilots must complete an Airman Medical Certificate application[3] and be examined by an FAA-designated Aviation Medical Examiner (AME)[4]. To a great extent, the medical certification process relies on an applicant's honesty in self-disclosing his or her medical history, especially any information about possibly disqualifying medical conditions. In other words, an AME's assessment to identify symptoms or medical conditions requiring further review is highly dependent on the medical history the applicant provides. Those who meet the appropriate medical standards—based on an in-person medical examination and an evaluation of medical history—are issued a medical certificate.[5]

Three classes of medical certificates exist: first, second, and third. The first-class certificate requires the most stringent medical examination, followed by the second-class, then the third-class, which is the least stringent of all the medical certificates. Airman Medical Certificate standards vary to accommodate all pilots, from those who fly aircraft in commerce to those who fly for pleasure. For example, airline transport pilots—who operate larger passenger aircraft—are required to hold a first-class medical certificate, must meet stricter health

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[3] FAA Form 8500-8, "Application for Airman Medical Certificate or Airman Medical and Student Pilot Certificate"

[4] An AME is a medical doctor authorized by FAA to perform physical examinations for issuance of FAA Airman Medical Certificates.

[5] The FAA medical examination is a general exam that reviews medical history (with attention to disqualifying medical conditions) and current medications; measures blood pressure, pulse, vision, and hearing; and includes a urine test. The examination is not designed to be a comprehensive physical.

standards, and are reexamined on a more frequent basis than private pilots who typically operate smaller aircraft not capable of carrying large numbers of passengers, and therefore are only required to maintain a third-class certificate.[6]

The Federal Air Surgeon also has identified certain medical conditions as specifically disqualifying for issuance of all classes of Airman Medical Certificates because these conditions could compromise a pilot's ability to safely operate an aircraft.[7] These include conditions ranging from heart problems to neurological and psychiatric disorders, for which psychotropic drugs are often prescribed—the use of which in itself is disqualifying.

As of June 2007, FAA's database included 625,922 pilots with current Airman Medical Certificates, consisting of 111,222 certificates with first-class privileges, 118,250 with second-class privileges, and 396,450 with third-class privileges. During calendar year 2006, FAA received 439,390 Airman Medical Certificate applications, issued 421,106, and denied 5,947. Ninety-one percent of the denied applications (5,421) resulted from applicants who failed to provide additional information requested in conjunction with their application or to take other actions required by FAA, such as a letter from their doctor about a particular condition. FAA was awaiting additional information on the remaining 12,337 applications, which as of December 30, 2006, were still pending an issuance or denial decision.

Multiple Indicators Show Problems with Pilot Disclosures About Potentially Disqualifying Medical Conditions. In addition to Operation Safe Pilot, both NTSB and FAA have published reports reflecting that pilots did not disclose serious medical conditions, which sometimes resulted in accidents and fatalities. For example, a May 2006 FAA research report[8] of post-mortem toxicology for 4,143 pilots who died in aviation accidents between 1993–2003 disclosed that 387 (nearly 10 percent) were taking some type of psychotropic, cardiovascular, or neurological medication not reported on their Airman Medical Certificate applications. The report's authors concluded that pilots who took psychotropic or neurological medications and were involved in fatal accidents rarely reported the medications or their underlying medical conditions to FAA.

In addition, our examination of the NTSB Aviation Accident/Incident Database, using keyword searches, identified 128 aircraft accidents attributable to pilot

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[6] Generally speaking, first-class certificates are valid for 6 calendar months after issuance, second-class certificates for 1 year, and third-class certificates for 3 years for pilots under age 40 or for 2 years age 40 and over.

[7] Under certain circumstances, FAA may exercise discretionary authority—under special issuance provisions of Title 14, Code of Federal Regulations—to issue an Airman Medical Certificate to applicants with some of these conditions.

[8] FAA, May 2006, *Comparison of Pilot Medical History and Medications Found in Postmortem Specimens* (Final Report), Civil Aerospace Medical Institute, Oklahoma City, OK.

medical issues (excluding substance abuse) over the last 11 years[9] from a universe of 22,927 accidents. Examples of these accidents include the following:

- On January 31, 2004, while flying as a private pilot, a retired commercial airline pilot experienced an in-flight loss of control and crashed into the Pacific Ocean near San Pedro, California. Six months prior to the accident the pilot reported to FAA that he did not have a notable medical history and was not taking any prescription medication. However, a review of the pilot's medical records after the accident revealed he had multiple medical conditions, including severe heart disease and dementia. NTSB determined the cause of this fatal accident was "incapacitation" during descent, which resulted in the pilot's loss of control of his aircraft and an in-flight collision with water.

- On July 15, 2001, a private pilot lost control of his aircraft and died while flying near Bridgeville, Delaware. A post-crash review of his medical and pharmacy records disclosed a history of Hodgkin's disease, substantial damage to his gastrointestinal tract, hypothyroidism, gall bladder disease, and coronary artery bypass surgery. In addition, he required most of his calories to be delivered intravenously through a surgically placed port in his chest. However, on the pilot's most recent Airman Medical Certificate application, he disclosed only that he was taking a medication for hypothyroidism.

  Toxicology reports indicated prescription antidepressant and narcotic-like painkiller medications in his blood at the time of the accident were more than 5 times higher than would be expected from the maximum recommended dosage. It was also discovered that the pilot was a doctor who wrote his own prescriptions. NTSB cited the cause of the accident as "incapacitation" due to the pilot's inappropriate use of medication and depression. NTSB also cited FAA's "inadequate certification/approval of the pilot's medical certificate" as a contributing factor.

Possible Regulatory Changes to Extend Medical Certificate Expiration Dates and Raise the Airline Pilot Retirement Age to 65 Underscore the Importance of the Medical Certification Process. On April 10, 2007, FAA published a Notice of Proposed Rulemaking[10] to extend the period for which Airman Medical Certificates are valid. Specifically, for pilots under age 40, the validity of first-class certificates would be extended from 6 months to 12 months, and third-class

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[9] From January 1, 1996 through December 31, 2006.

[10] FAA, "Modification of Certain Medical Standards and Procedures and Duration of Certain Medical Certificates," 72 FR 18092.

certificates from 3 to 5 years. Since extending certificate expiration dates will result in fewer opportunities for AMEs to evaluate pilot medical fitness, it will be even more important for FAA to take steps to ensure that pilots' medical conditions are fully disclosed when applications for Airman Medical Certificates are processed.

In addition, FAA is currently considering possible rulemaking action to change the mandatory retirement age for airline pilots from age 60 to age 65. Since the age limit is in part directly related to the health and medical condition of pilots, FAA actions to ensure compliance with disclosure requirements will be important in light of this potential change.

Many differing views may exist within the aviation industry and medical community regarding these possible rule changes. Notwithstanding the merits of these proposed changes, one thing is clear—if either rule change is made, ensuring the integrity of applicant disclosures on Airman Medical Certificate applications will become even more important for FAA in administering its Airman Medical Certification Program.

Operation Safe Pilot Disclosed a Potential Systemic Problem that Requires Greater Attention and Oversight by FAA

In 2003, our office initiated a proactive investigation, termed "Operation Safe Pilot," in part to determine whether a fraud scheme uncovered in 2002 reflected a systemic problem. During a 2002 joint criminal investigation in California with SSA/OIG, we determined a pilot had defrauded both FAA and the SSA Disability Insurance Trust Fund Program by making false statements to doctors for the purpose of maintaining his FAA private pilot's certificate and obtaining SSA benefits.

For approximately 14 years, this pilot had used two different doctors: one to conclude he was in good physical health in order to maintain his airman medical certificate and one to diagnose him with a disabling disease in order to fraudulently receive SSA benefits. In 2002, following a 4-day trial in Federal court, the pilot was found guilty of fraud. He was subsequently sentenced to serve 21 months in prison and 3 years of supervised release, as well as pay nearly $200,000 in restitution to the Federal government. FAA also revoked his pilot's certificate and Airframe and Power Plant (A&P) mechanic's license.

Operation Safe Pilot began with a universe of about 40,000 pilots, residing in Northern California, who held current FAA-issued medical certificates. SSA compared these pilots against its databases and produced an initial list that identified approximately 3,220 pilots who were receiving some type of SSA benefits, including disability benefits. This list of pilots was further refined after seeking advice from the FAA Regional Flight Surgeon about what medical conditions might disqualify a pilot from holding an Airman Medical Certificate. Then, in consultation with USAOs in California, we selected potential investigative targets focusing on:

- Pilots collecting disability benefits from SSA's Disability Insurance Trust Fund and Supplemental Security Income Program;
- The apparent seriousness of the medical condition and falsification of the FAA Airman Medical Certificate application; and
- Cases meeting USAO prosecutive requirements.

At our request, the FAA Regional Flight Surgeon then reviewed SSA disability case files[11] and FAA medical files for selected pilots and, after doing so, provided us a written assessment for 48 regarding their medical qualification to hold an Airman Medical Certificate. The Flight Surgeon determined that these 48 pilots would not have passed the airman medical examination had the physicians conducting the examinations on behalf of FAA known about the pilots' disqualifying medical conditions. FAA issued Emergency Revocation Orders against 16 of these individuals and notified the remainder that their Airman Medical Certificates were being suspended.

Criminal prosecutions were initiated against these 48 pilots, who held all classes of pilot certificates.[12] Forty-five, including two medical doctors, were subsequently indicted for and convicted of making false statements to FAA on their Airman Medical Certificate applications.[13] In all 48 cases, the pilots failed to notify FAA about their well-documented, severe, pre-existing medical conditions as required when completing and certifying the truthfulness of their Airman Medical Certificate applications.

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[11] These files include physician evaluations, test results, and other medical evidence to support disability claims, as well as SSA initial and recurrent determinations of disability. In a few instances, SSA case files were not available for review. Alternatively, SSA provided other information describing the disabling conditions the disability recipients claimed.

[12] The 48 subject pilots ranged in age from 25 to 71, with an average age of 53 years, 7 months.

[13] Two pilots died during the investigation, and the USAO declined prosecution against another pilot.

These pilots' pre-existing medical conditions included heart, back, and mental disorders and substance dependence. Many of these pilots had multiple disqualifying conditions, with the most common condition (approximately 54 percent) being some type of mental disorder such as schizophrenia. This illustrates the importance of ensuring that Airman Medical Certificate applicants fully disclose their medical history to AMEs as these types of disorders may not always manifest themselves during a general examination. Two examples of cases prosecuted as a result of Operation Safe Pilot are summarized below:

- An airline transport-rated pilot who flew cargo for a regional airline also received SSA disability benefits based on a diagnosis of schizophrenia and bipolar and psychotic disorders. The severity of this pilot's disability was illustrated by medical file notations made by his therapist when the pilot disclosed that voices were telling him to jump off the Golden Gate Bridge. In addition, in 1992, the pilot had been committed to a mental crisis unit after being apprehended for trespassing on the grounds of San Quentin State Prison, at which time he said he was under the control of voices directing him to hike until exhaustion.

  However, when applying for FAA Airman Medical Certificates from 1991 to 2005, this pilot denied ever having any mental health disorder. He did not mention on any of these medical certificate applications his extensive history of mental illness, the doctors he visited, the institutions where he had been committed, or the medications he had been prescribed. At the same time, he did not mention the fact that he had been granted SSA disability benefits because he was deemed mentally incapable of maintaining any employment. He was prosecuted for making false statements on his Airman Medical Certificate application, and FAA revoked both his medical and airline transport pilot's certificates.

- A private pilot was receiving SSA disability benefits and 100% disability from the U.S. Department of Veteran Affairs based on a diagnosis of Post-Traumatic Stress Disorder and anxiety-related disorders. This pilot also had been convicted for misdemeanors involving fighting and domestic violence. In addition, he once told a doctor that he had previously attempted suicide. During an interview with a DOT/OIG special agent, the pilot admitted to previously being arrested for the manufacture and use of methamphetamines and for relapsing and failing a urine test for methamphetamines while on a pre-trial diversion program.

  Nonetheless, when submitting applications for his Airman Medical Certificate in 2002 and 2004, he denied any mental disorders or criminal convictions. He was prosecuted for making false statements on these

applications, and FAA revoked both his medical and private pilot's certificates.

FAA Can Take Several Actions to Ensure that Disabled Pilots are Not Circumventing the Medical Certification Process

In July 2005, we sent a memorandum to the DOT Secretary, Deputy Secretary, and FAA Administrator highlighting the results of Operation Safe Pilot. We pointed out that FAA did not have a mechanism for (1) identifying certificated pilots who are receiving medical disability benefits from Federal disability providers such as SSA, the U.S. Department of Veterans Affairs, and the U.S. Department of Labor and (2) determining whether the documented medical conditions of those disability recipients would disqualify them from maintaining their Airman Medical Certificates. We recommended that FAA:

- Work with SSA and the other disability benefits providers to expedite development and implementation of a strategy to carry out these checks and take appropriate certificate regulatory enforcement action where falsifications are found; and

- Consider revising its "Application for Airman Medical Certificate" to require applicants to explicitly identify whether they are receiving medical disability benefits.

In the past, FAA has implemented improved controls to strengthen oversight of the Airman Medical Certification Program. For instance, as a result of FAA rulemaking activities initiated in the late 1980s, the medical certification process now requires use of the National Driver Register[14] to help identify airmen whose driver's licenses were revoked or suspended because of driving while intoxicated to better detect undisclosed substance abuse. This action was taken, in part, in response to our February 1987 audit report[15] that concluded that, procedurally, the Airman Medical Certification Program was overly dependent on self-reporting by pilots because 71–76 percent of pilots with prior convictions were not disclosing convictions for drug and/or alcohol problems.

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[14] The National Driver Register is a computerized database of information provided by State motor vehicle agencies about drivers who have had their licenses revoked or suspended or who have been convicted of serious traffic violations such as driving while impaired by alcohol or drugs.

[15] DOT/OIG, "Report on Audit of Airmen Medical Certification Program," Report No. AV-FA-7-018.

Subsequent to this audit, OIG also conducted a proactive criminal investigative initiative, Operation Pilot Match, which resulted in prosecution of numerous pilots for falsifying their Airman Medical Certificate applications by failing to disclose convictions for drug- and/or alcohol-related offenses.

In response to our recommendations, in April 2007 FAA initiated discussions with SSA to match the FAA database of pilots with current medical certificates against relevant SSA databases of disability benefits recipients. Both agencies have been discussing how such a process could be structured under the Privacy Act to ensure compliance with the law. We understand that FAA plans to (a) revise its Privacy Act rules to specifically state that information collected may be shared with other agencies for the purpose of identifying undisclosed medical conditions, and (b) conduct periodic matches with SSA using the new process. We believe these are appropriate first steps and once FAA refines a matching process with SSA, it can begin developing similar processes with other Federal disability providers, such as the U.S. Department of Labor.

FAA has also expressed its intention to revise the "Application for Airman Medical Certificate" to explicitly ask the applicant about the receipt of medical disability benefits. To obtain maximum benefit from this action, FAA should ensure this question asks not only about the current receipt of medical disability benefits, but also about whether the applicant has ever received or submitted a claim for such benefits from any provider.

In conjunction with the foregoing actions, FAA should consider two additional measures:

- Conducting an education and outreach effort to ensure pilots are fully aware of their responsibilities for accurately disclosing their medical histories on the Airman Medical Certificate application and discussing their histories with AMEs during periodic medical examinations.

- Administratively offering a grace period to hold harmless any pilots who self-identify to the FAA previously undisclosed and potentially disqualifying medical conditions. Such a measure could be designed to relieve pilots of fines and other penalties associated with violating certain FAA regulations, thereby providing an incentive for them to participate.[16] FAA would need to make absolutely clear that all medical conditions disclosed would be evaluated, and, unless pilots were found to be medically

[16] FAA previously offered a similar program in the late 1980s to identify previously undisclosed drug- or alcohol-related convictions, resulting in more than 11,000 pilots making disclosures.

fit to fly, their Airman Medical Certificates would be subject to revocation. We believe such a measure would provide an immediate opportunity to prospectively mitigate the safety risk posed by undisclosed and potentially disqualifying medical conditions.

This concludes my statement, Mr. Chairman. I would be pleased to address any questions that you or other Members of the Subcommittee may have.

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