

**Statement of the
American Maritime Officers
International Organization of Masters, Mates & Pilots
and the
Marine Engineers' Beneficial Association
to the
Subcommittee on Coast Guard and Maritime
Transportation
of the
House of Representatives Committee on Transportation
and Infrastructure
on
The National Maritime Center and Mariner Credentials
July 9, 2009**

Chairman Cummings and Ranking Member LoBiondo:

The American Maritime Officers (AMO), the International Organization of Masters, Mates & Pilots (MM&P), and the Marine Engineers' Beneficial Association (MEBA) are grateful for the opportunity to submit this statement in conjunction with your Subcommittee's hearing on the National Maritime Center (NMC) and Mariner Credentials. The licensed merchant mariners our labor organizations represent work aboard United States-flag vessels. These are the merchant mariners that carry our waterborne commerce and cargoes vital to our armed forces around the world.

Each one of our members must be medically and professionally qualified to perform the duties assigned to the various billets on board all sorts of vessels. Medical qualifications are determined through physical examinations. Professional qualifications are determined through a combination of experience, training, and education.

Accurately documenting these qualifications is critical to our industry and to the individual mariners who make it work, here in the US and around the world.

Our labor unions and others have participated in every available forum, including meetings with USCG leadership, to help establish policies, regulations, and processes that will benefit our industry and mariners. In April of last year we initiated a meeting with the Commandant and directly expressed our most serious concerns to him. The Commandant assured us that the USCG was aware of the problems we raised, shared our concerns and were aggressively taking steps to address these problems. Nonetheless, serious problems remain with the USCG medical review and credentialing processes that have negative impacts on our members.

For mariners, licensing and documentation is not about metrics, action plans, surging resources, or outreach to the industry. It is about their ability to maintain employment that provides for their families, maintains their health care and pension benefits, and allows them to advance in the seafaring profession.

NMC Medical Review Process

We wish to point out that the USCG's revision of the medical review process began in 2004 as an overly excessive response to political pressure following the *Andrew Barberi* collision in New York in October, 2003. In our view, that accident was the direct result of a procedural failure to have at least two qualified deck officers in the wheelhouse during a critical maneuver. The failure was in violation of good seamanship and the principals of bridge resource management. In addition, the examining physician falsified the Assistant Captain's medical report against all legal and ethical practice.

The Coast Guard began the process of revising its process for reviewing mariners' medical qualifications by revising its Navigation and Vessel Inspection Circular entitled, *Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials* (NVIC). At the time, our organizations expressed our thanks to the Coast Guard for opening the process to public comment. We submitted the following:

1. Excessive complexity: We agreed that the system of medical review needed to be improved, but the proposed NVIC was an excessive response toward making improvements. We commented that the proposed NVIC was excessive in terms of its complexity and its impact upon the community of mariners.

The evaluations, consultations and documentation required by the NVIC to obtain a waiver were nothing less than awesome and would require comprehensive testing that would be both expensive and time consuming.

2. Poor estimates: We were concerned that the process of commenting on the NVIC was not subject to regulatory requirements that would help the USCG to understand the impact of the NVIC. Specifically, the process did not require the USCG to contemplate the economic effects or the impact of the NVIC upon mariners or the maritime industry. There was no requirement for the USCG to conduct a cost/benefit analysis to weigh the potential reduction in accidents against the estimated cost to the mariners, the industry and the government. We warned the USCG they had underestimated:

- 1) the number of mariners who would be affected,
- 2) the number of requests for medical waivers, and,

3) the size of staff and the level of resources needed to process requests for waivers and medical applications.

3. **Backlogs:** We commented that it was to be inevitable that the NVIC would increase the volume of applications for medical waivers and bog down the process. We were concerned that the increased volume of applications would result in backlogs that would cause mariners to lose income while waiting for their applications to be processed. We said that the amount of lost income could not be accurately estimated but that the consequences would be severe for those individuals affected. Moreover, lost employment results in loss of eligibility for benefits and opportunities to advance in the maritime professions.

What is particularly distressing to us is that the Coast Guard should have known that backlogs would be a significant issue. During several public meetings, including meetings of the Merchant Marine Personnel Advisory Committee (MERPAC), Coast Guard representatives stated that of the estimated 200,000 US mariners, approximately 2% or 4,000 would apply for medical waivers each year. The USCG expected the NVIC to result in an estimated 10% increase in the number of waiver applications, or 4,400 per year.

The USCG said it planned to staff their medical review office with seven (7) individuals to process waivers applications. Only three (3) of those individuals were to be evaluators with the authority to make decisions which left a yearly average of about 1,467 applications for waivers for each evaluator. We expressed our doubts that the anticipated staff would be able to handle the actual work load that would be generated.

Unfortunately, the problems that we predicted for our industry and our members came true. On June 29, the NMC issued a press release that stated, "a significant portion of the delays in processing is attributable to the complexity of completing the application ...". The form CG-719K, *Merchant Mariner Physical Evaluation Report*, and the excessive supplemental information that may be required by the NVIC and the NMC are a significant part of the application.

Recently, the NMC reported that it was backlogged about 4,500 medical applications. The effect of this has been months of delays where some mariners have lost jobs, lost

benefits, and lost opportunities for advancement at a time when our nation is experiencing the worst economic downturn since the Great Depression.

It is absolutely unacceptable that any mariner should be out of work due solely to the failure of the system to adequately anticipate and plan for the problems we have experienced, especially after the agency was repeatedly warned that these problems were coming. We have come to the conclusion that the present USCG medical review process is a flawed system the basic concept of which needs to be revisited.

Possible Solutions

The solutions to the problems at the NMC with respect to the medical review process are not to automate bad processes or to "surge" resources to handle backlogs. We feel very strongly that the USCG should:

- 1) place a greater emphasis on implementing efficient and effective licensing and documentation programs.
- 2) engage more actively with the community of mariners and listen much more effectively to mariners and their representatives.
- 3) adopt reasonable policies that will allow those mariners who are able to manage their medical conditions and operate safely to continue in the profession.
- 4) end trying to determine medical fitness for duty by remote control at the NMC. Rather, the Coast Guard should establish a register of qualified examining medical professionals authorized to determine a mariner's fitness for duty and issue a valid medical certificate. Such a system of medical review is in place in the United Kingdom where examining medical professionals who are closer to the mariners have greater discretion under clear and uncomplicated guidelines. A similar system is presently being established under the guidance of the International Maritime Organization to cover all mariners in international shipping and will in the near future cover all mariners on foreign ships that total more than 95% of the large oceangoing ships in our US ports.

Merchant Mariner Credentialing

The area of mariner licensing and documentation (now called "credentialing") is an area of great concern to us. Accurately documenting mariners' certifications and endorsing licenses and other essential documents is critical to our ability to provide qualified mariners to every sector of the industry. For individual mariners, accurately documenting their certifications and endorsements is crucial to being able to find and hold on to employment.

There is general concern among the licensed mariner community that the USCG is deliberately diminishing the professional standing of merchant marine officers by eliminating the word "license" from their regulations in favor of the terms "credential" and "officer endorsement," and by proposing to eliminate the oath for merchant marine officers. To us, this is evidence that the USCG is seeking to diminish the standing of merchant marine officers.

It is difficult to dispute this view in the context of recent history. In 2004, the USCG legal office issued a legislative change proposal to rewrite 46 USC 7101, the statute that establishes merchant marine licenses. Among other things, the term "license" would have been dropped from the statute. Seafaring officer labor was provided no notice of the proposal from the Coast Guard. Fortunately, the USCG dropped its proposal after we had registered our objections to the changes in discussions with several Congressional committees to which the USCG had shopped the proposal.

In our view, by eliminating the word "license" from its regulations, the USCG is doing by regulation what the Congress would not allow it to do in statute.

In addition, we have other serious and specific concerns over the "credentialing" function:

1. **Dropped endorsements:** Mariners who send in their licenses and documents to be updated, find that endorsements they had previously are no longer listed.
2. **The new Merchant Mariner Credential (MMC):** In some ports around the world, local officials take merchant mariners' documents to copy them. The new MMC now contains all of a mariner's licenses and endorsements. Mariners are understandably reluctant to turn over these important documents to officials in other countries.

Many mariners are also angry over the USCG's refusal to offer, at a fee, to print the old-style license.

3. **Processing times:** Mariners wait for months in order to have their documents updated.
4. **Inconsistent and wrong advice:** Several of our members complain that advice from the NMC help desk is inconsistent or just plain wrong.

Possible Solutions

In the past, mariners went to one of the USCG's Regional Exam Centers (REC) to initiate and complete their licensing and documentation transactions. The benefit to the mariner was the availability of USCG personnel, face to face. Before a mariner left the REC with new or updated documents, the mariner read them over. If there were any problems, the documents could be handed back over the counter and the trouble addressed on the spot.

Centralization of licensing and documentation has concentrated the work load which has proven to be unworkable.

One possible solution may be to return to the REC system, in whole or in part, and provide REC personnel with clear guidance and the appropriate discretion to make decisions that make sense.

Another may be to develop a system of trusted agents like maritime academies and union training institutions to perform the licensing and documentation functions for the USCG. The Coast Guard could then focus on auditing the agents. Such a system would also employ experienced maritime professionals, committed to improving the profession and interested in assisting other mariners through the licensing process.

Conclusion

We hold the view that our merchant mariners are a national asset. They contribute to the quality of life around the world by maintaining and upgrading their skills and professionalism. They carry our commerce, support our armed forces, and assist during natural disasters. They deserve no less than the best efforts of government to assist them and not to cause them problems.

The problems at the National Maritime Center have caused mariners to lose employment and benefits that are vital to their wellbeing and the security of their families. Furthermore, the disconnect and deteriorating relations between US mariners and the USCG is widening at a time when the agency has acknowledged that it needs to work to rebuild confidence in the mariner community.