

Age 60: An Enigma

Editorial, by Jon L. Jordan, MD, JD

In my tenure with the Federal Aviation Administration, have had the opportunity to see a number of contentious issues arise, fade, and then arise again - some repeatedly. None, however, has been more contentious than the age 60 limit that is applicable to air carrier pilots.

As many of you know, the Code of Federal Regulations applicable to air carrier operations precludes a person from serving as a pilot in an air carrier operation if that person has reached his or her 60th birthday.

The "Age 60" rule dates back to the late 1950s and was implemented at that time on the basis of concerns regarding an aging pilot population and operational challenges being presented by an air carrier industry that was transitioning from propeller driven to high-performance jet aircraft. The concerns for pilots targeted age-related deterioration in physiological and psychological functions, the appearance of significant medical conditions as one ages, and the operational demands of the changing aviation environment. However, the selection of age 60 as the appropriate age at which one should no longer serve as a pilot in air carrier operations was somewhat -discretionary.

Since its implementation, the rule has been subjected to multiple challenges, both in the administrative and judicial arenas. Opponents of the rule point out that there is no scientific basis for such a rule, that persons age at different rates, and that recent advances in medicine should allow us to either raise the age barrier or grant exceptions to the rule on the basis of individual consideration.

Proponents for the rule believe it has served safety over the years, should not be discarded without clear justification, and that there is no satisfactory means to evaluate persons on an individual basis.

The Federal Aviation Administration has reviewed the rule on multiple occasions but has repeatedly concluded that it should not be changed. In addition, courts have not been inclined to overturn the rule or direct the agency to grant exemptions from the rule. Nonetheless, criticism of the rule continues to be raised.

Although the Supreme Court just recently refused to consider a request for review of a lower court decision leaving the rule unchanged, it appears that energy is building yet again to challenge the agency's reluctance to grant exemptions from the rule. In part, momentum for this challenge is generated by a recent decision by the Joint Aviation Authority of the European

countries to allow one pilot to serve in an air carrier operation up to age 65 so long as the other pilot is under age 60. While this change is based largely on cardiovascular data and a related safety risk assessment, it still has the appearance of a highly discretionary rule.

Interestingly, the European community has established what amounts to a mandatory "retirement" age of 70 for aviation medical examiners.

Few people like inflexible, discretionary rules, and I am among them. Unfortunately, how to solve the problem of deterioration in performance with aging and its impact on aviation safety is an enigma. I only wish I knew the answer.

JLJ