

GENERAL INFORMATION	
<b>KEYWORDS</b>	Marine medical certificate, alcohol abuse
<b>FILE NO.</b>	MH-0240-21
<b>SECTOR (Marine or Aviation)</b>	Marine
<b>SPECIFIC JOB</b>	Unemployed
<b>DIAGNOSIS (Primary, Secondary, etc.)</b>	Alcohol abuse
REVIEW	
<b>DATE OF DETERMINATION</b>	August 21, 2014
<b>MEMBER</b>	Dr. John Sehmer
<b>DETERMINATION</b>	The Minister's decision is confirmed.
<b>REASONS FOR THE DETERMINATION</b>	<p>Issuance of a marine medical certificate with restrictions – “no watchkeeping duties”. The evidence presented by the Minister and the testimony of the applicant showed that full medical certification could not be granted to the applicant, as this would have been in contravention of the ILO/IMO guidelines with respect to the performance of seafaring duties with the applicant's prior medical history of alcohol abuse. Therefore, the Minister's decision to refuse to issue the applicant an unrestricted marine medical certificate was reasonable. The decision is confirmed.</p>
APPEAL	
<b>DATE OF DECISION</b>	July 10, 2015
<b>MEMBERS</b>	Dr. George Pugh, Mr. John Badowski, Mr. Brad M. Caldwell
<b>DECISION</b>	The appeal is dismissed.
<b>REASONS FOR THE DECISION</b>	<p>Since most of the issues raised by the appellant in this appeal involve issues of fact and mixed fact and law, the appeal panel will consider the review member's approach to these issues on a standard of reasonableness. However, in determining first whether the review member erred in improperly basing his determination on the ILO/IMO guidelines, the appeal panel will use a standard of correctness given that this constitutes a question of law.</p> <p>Since the appellant agreed that the review determination was based on the ILO/IMO guidelines, this panel is consequently of the view that in doing so, the review member did not make an error of law. The appellant's submissions that the review member had failed to properly consider his arguments and that no medical evidence showing that a real risk existed had been provided by Transport Canada, are not supported by the documentation reviewed. The safety of the travelling public and other mariners outweighs the privilege to perform a safety-critical job. With respect to the appellant's <i>Canadian Charter of Rights and Freedoms</i> argument, this was raised for the first time at the appeal stage and no evidentiary foundation was</p>

	<p>provided for it. The panel is therefore not prepared to consider the <i>Charter</i> argument. Although brief and to the point, the review member's conclusion is clearly within a range of reasonable outcomes based upon the evidence that was before him. With the evidence presented and submissions made by the parties, the members of this panel could easily have arrived at the same conclusion, which was made in the context of the appropriate regulations and guidelines.</p> <p>The members confirm the Minister of Transport's decision to apply a limitation of "no watchkeeping duties" to the appellant's marine medical certificate.</p>
OTHER/COMMENTS	