

GENERAL INFORMATION	
KEYWORDS	Marine medical certificate, bipolar disorder, mental health
FILE NO.	MP-0597-28
SECTOR (Marine or Aviation)	Marine
SPECIFIC JOB	
DIAGNOSIS (Primary, Secondary, etc.)	Bipolar Disorder Type 1
REVIEW	
DATE OF DETERMINATION	December 20, 2021
MEMBER	Dr. Robert Cronin
DETERMINATION	The member is referring the matter back to the Minister of Transport for reconsideration
REASONS FOR THE DETERMINATION	
<p>Refusal to issue a marine medical certificate (MMC) — Transport Canada (TC) advised the applicant of the refusal to issue him an MMC due to a diagnosis of Bipolar Disorder Type 1, pursuant to paragraph 16(4)(a) of the <i>Canada Shipping Act, 2001</i>. This diagnosis poses a significant and unacceptable risk to the performance of his safety-critical role as the environment on board ship with the cramped quarters, intense relationships with a limited number of people, constant noise, disrupted sleep schedule, separation from supportive influences, etc., is very difficult. The evidence demonstrates that the Minister of Transport (Minister) has taken a decision to refuse to issue based solely on a diagnosis of Bipolar 1 without consideration of the International Labour Organization (ILO) and International Maritime Organization (IMO) <i>Guidelines on the medical examinations of seafarers</i> (ILO/IMO guidelines) which take precedence over the Canadian guidelines and the <i>Guidelines Concerning Fitness Categories with regard to specific Psychiatric Disorders</i> by Dr. Jonathan Pulman and allow for more flexibility, as opposed to the other guidelines deeming a seafarer unfit based on the diagnosis alone. The member gives more weight to the ILO/IMO guidelines, as they are incorporated by reference into the <i>Marine Personnel Regulations (MPRs)</i>. Subsection 278(5) of the <i>MPRs</i> states that the Minister's decision with regard to any MMC shall be based on criteria which include the occupational and operational requirements of the position, the level of risk involved to the seafarer, other seafarers, the vessel, and the health and safety of the general public. The Minister's witness testified that, in general, decisions are made based on medical factors, as well as occupational factors, including the type of position applied for, severity of the medical condition, access to medical help, risk to others, the vessel and passengers, etc. The overriding factor is safety. In the applicant's testimony, he stated that he was applying for the position of deckhand. In this position as deckhand, he would be home every night, have daily access to his medications, and would have ongoing access to his psychiatric care as well as psychological counselling. Based on the evidence presented, the member has considerable doubt as to whether the factors in subsection 278(5) of the <i>MPRs</i> were considered in this case. The member finds that this matter should be returned to the Minister for reconsideration including a review of the specific factors of the applicant's case. There is ample evidence to suggest support for a restricted or conditional MMC with limitations such as no lone watchkeeping, no overnight work, and with the requirement for frequent mental health reports to TC. This is supported by his prolonged remission, self-awareness, insight, motivation, stable medication regime, and with consideration for ideal working conditions suited to maintaining his stability. The Minister has not taken into consideration subsection 278(5) of the <i>MPRs</i> which requires that occupational and operational requirements of the position shall be considered for the issuance of an MMC.</p>	
APPEAL	
DATE OF DECISION	
MEMBERS	

DECISION	
REASONS FOR THE DECISION	
OTHER/COMMENTS	