RECORD OF PROCEEDINGS

PHYSICAL DISABILITY REVIEW BOARD

NAME: BRANCH OF SERVICE: ARMY

CASE NUMBER: PD0900015 COMPONENT: ACTIVE

BOARD DATE: 20090604 SEPARATION DATE: 20050503

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SUMMARY OF CASE: This covered individual (CI) was an active duty NCO medically separated from the Army in 2005 after 4 years of service. The medical basis for the separation was post-operative scar complications following C-section in 2003. After initial problems with incisional healing, she underwent a plastic surgery revision, and further complications ensued. She was left with a large, painful (hip-to-hip) keloid scar interfering with her duty requirements. There were additional medical issues with both knees and Carpal Tunnel Syndrome of the left wrist. She was referred to the PEB, found unfit for the abdominal scar and separated at 10% disability. An examination by the VA 15 months later rated her 10% for the scar with additional ratings for the orthopedic conditions, yielding a combined disability of 40%. The CI contends that the rating for her abdominal scar does not fairly reflect its impact on her life and earnings, and that her orthopedic conditions should also have been considered by the PEB.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BOARD FINDINGS: IAW DoDI 6040.44, provisions of DoD or Military Department regulations or guidelines relied upon by the PEB will not be considered by the PDBR to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. The Board diligently scrutinized the knee and wrist diagnoses as candidates for additional unfitting conditions overlooked by the PEB. It is true that her knee problems are currently significant issues for the CI, and were not aggressively pursued by the military in the face of her more pressing abdominal scar problem. There is nothing in provider notes, commander’s statement, medical profiles or otherwise in the record that would support a finding of unfitness had the conditions been formally adjudicated by the PEB. The Board cannot, therefore, support a recommendation for additional unfitting conditions in the separation rating. Regarding the rating for the unfitting scar, the Board notes that under the VASRD (2005) codes applied by the PEB and the VA, no rating greater than 10% is authorized. Serious consideration was given to regarding the scar as ‘deep’ under VASRD 7801, which is the only available code allowing for a higher rating. The surface area of the scar, however, would support only a 20% rating under 7801. Consideration was given to exercising the prerogative in Note (1), albeit under 7801, to code and rate separate anterior and posterior abdominal wall components. By a majority vote, the Board agreed that the PEB coding and rating was fair. The single voter for dissent (who recommended application of the ‘Note 1’ prerogative above, yielding a 20% rating) elected not to submit a minority opinion.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RECOMMENDATION: The Board recommends that there be no recharacterization of the separation.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090114, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veteran's Affairs Treatment Record.

 President

 Physical Disability Board of Review

