RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: NAVY
CASE NUMBER: PD1100212 SEPARATION DATE: 20080124
BOARD DATE: 20120214

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a mobilized Reserve BM1/E-5 (Boatswain's Mate), medically separated for the overall effect of left cubital tunnel syndrome, left medial epicondylitis and left medial collateral ligament (MCL) sprain. He did not respond adequately to treatment to fully perform within his rating or meet physical fitness standards. He was referred to a Medical Evaluation Board (MEB) and then placed on limited duty (LIMDU). Left knee MCL sprain, medial epicondylitis, and lesion of ulnar nerve were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW SECNAVINST 1850.4E. No other conditions appeared on the MEB's submission. Other conditions included in the Disability Evaluation System (DES) file will be discussed below. The PEB adjudicated the overall effect of the left cubital tunnel syndrome, left medial epicondylitis and left MCL sprain conditions as unfitting, rated 0% utilizing SECNAVINST 1850.4E. The CI elected transfer to the Reserve Retired List awaiting pay at age 60 in-lieu of disability discharge with severance pay.

CI CONTENTION: The CI states: "Left elbow medial epicondylitis, Left upper extremity cubital tunnel syndrome, Left knee strain." He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

Service IPEB – Dated 20070727		
Condition	**Code**	**Rating**
Left Knee MCL Strain	Combined Effect	0%
Left Cubital Tunnel Syn.		
Left Medial Epicondylitis		
↓No Additional MEB/PEB Entries↓		
Combined: 0%		

VA (18 Mo. After Separation) – All Effective 20080125			
Condition	**Code**	**Rating**	**Exam**
Left Knee Strain	5014-5260	10%	20090711
Left Cubital Tunnel Syn.	8599-8516	10%	20090711
Left Medial Epicondylitis	5024-5206	10%	20090711
Lumbosacral Strain	5010-5237	10%	19990222
0% x 5			20090711
Combined: 30%			

ANALYSIS SUMMARY: The PEB combined left cubital tunnel syndrome, left medial epicondylitis and left MCL strain as a single unfitting condition, uncoded and rated 0%. The PEB may have relied on SECNAVINST 1850.4E for not applying separately compensable VASRD codes. Not uncommonly, this approach by the PEB reflected its judgment that the constellation of conditions was unfitting, but that individually each condition alone was not considered unfitting, hence the "combined effect." The Board's initial charge in this case was therefore directed at determining if the PEB's approach of combining conditions under a single rating was justified in lieu of separate ratings. If the Board judges that two or more separate ratings are warranted in such cases; however, it must satisfy the requirement that each "unbundled" condition was unfitting in and of itself. Thus, the Board must maintain the prerogative of separate fitness recommendations in this circumstance, with the caveat that its recommendations may not produce a lower combined rating than that of the PEB.

Left Knee Condition. The CI's knee pain began as a sports injury. He was diagnosed with a medial collateral ligament (MCL) sprain by clinical examination and MRI, and referred to physical therapy. Six months later an orthopedic re-evaluation diagnosed a healed MCL sprain with residual pain and cleared the CI for demobilization. There were two goniometric and one non-goniometric range-of-motion (ROM) evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation.

Left Knee ROM	Ortho – 16 Mo. Pre Sep	MEB – 7 Mo. Pre Sep	VA C&P –18 Mo. Post Sep
Flexion 140° normal	130°	Full	125°
Extension 0° normal	5°	0°	0°
Comments	Stable joint	Stable joint	Stable; painless motion
§4.71a Rating	10%*	0%	0%

* Conceding §4.59 (painful motion) or §4.40 (functional loss) as below.

At the MEB exam there was history of persistent pain and inability to run or do lateral movements. The examiner found a "full" ROM, no effusion, but point tenderness at the MCL femoral insertion. The knee was stable to all stresses, with valgus stress producing pain. Plain radiographs of the knee were normal, and a repeat MRI showed no evidence of a meniscus tear, or abnormality of the cruciate or collateral ligaments. Earlier orthopedic examinations revealed minimal deficits in ROM, and a stable joint with tender plica. A sports medicine examination one year before separation recorded full active range of motion. No Department of Veterans' Affairs (DVA) Compensation & Pension (C&P) or other exams were conducted within 12 months of separation. A C&P exam 18 months after separation revealed a painless active and passive ROM that was minimally impaired in flexion, and unchanged with repetitions. The motor and sensory exams of the lower extremities were normal. The Board first considered the probative value of the evidence presented. The MEB exam, although closest to separation, did not provide complete goniometric measurement for flexion. However, taken together with the earlier orthopedic and sports medicine examinations, the MEB exam did provide an accurate picture of the pathology and residual disability associated with the CI's knee pain condition that could be fairly rated by VASRD standards. The VA C&P exam was most distant from separation and well outside the DoDI 6040.44 defined 12-month interval for special consideration to post-separation evidence. The Board therefore assigned least probative value to this exam. The PEB's record of proceedings reflected the likely application of SECNAVINST 1850.4E for rating, but its 0% determination was consistent with §4.71a standards based on the MEB exam data. The VA rating decision indicates that its 10% rating was "based on objective evidence of limited motion of a major joint," but there is no VASRD compliant pathway to a minimal compensable rating given the absence of painful motion, DeLuca criteria, and radiographic evidence of degenerative arthritis as described in the C&P exam. The Board; however, concluded that the totality of evidence from the service treatment record, provided sufficient evidence that the CI's knee became painful with use leading to functional loss to support a minimal compensable rating with application of VASRD §4.59 (painful motion) or §4.40 (functional loss). After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separation rating of 10% for the left knee condition, coded 5099-5003.

Left Elbow Medial Epicondylitis and Cubital Tunnel (Ulnar Neuropathy) Conditions. The CI developed left elbow pain and left hand numbness insidiously, without trauma while deployed. The condition first appears in the service treatment record (STR) during a demobilization exam following successful completion of this deployment. He was treated with anti-inflammatory medication, active rest, and iontophoresis, but continued to have pain with the use of his left arm and a subjective sense of weakness of the left hand. There is no LIMDU for this condition in evidence prior to completion of MEB procedures. The MEB examiner noted that the CI was

point tender in the left medial epicondyle and he had medial epicondyle pain with wrist flexion and pronation against resistance. He had a positive Tinel sign at the cubital tunnel. The motor exam of the left upper extremity was normal to include the muscles of the hand innervated by the ulnar nerve. The sensory exam was intact to two point discrimination in all fingers. A neurology consultation five months prior to the MEB also recorded a normal motor exam, but found diminished sensation along the median palmar surface and fourth and fifth digits of the left hand. An extensive electrodiagnostic examination of the left upper extremity showed no evidence of an ulnar mononeuropathy or C8 motor radiculopathy (spinal nerve root innervations to the same area). No formal ROM exam of the elbow is in evidence in the STR. However, medial epicondylitis is not a condition that would be expected to impair elbow range of motion, and radiographs of the left elbow showed no significant abnormality. A VA C&P exam 18 months after separation, although of limited probative value as discussed above, included the CI's assessment that his left elbow pain was intermittent and did not impact him occupationally or in usual daily activities. The exam revealed a full, painless active and passive ROM of the elbow that was unchanged with repetitions. There was no motor exam of the upper extremities recorded. The examiner noted a negative Tinel sign at the cubital tunnel, and decreased sensation in the long finger, the ring finger, and the small finger of the hand as well as the ulnar aspect of the forearm, but opined that this distribution was not consistent with cubital tunnel syndrome.

As previously elaborated, the Board must first consider whether left medial epicondylitis remains separately unfitting, having de-coupled it from a combined PEB adjudication. In analyzing the intrinsic impairment for appropriately coding and rating this condition the Board is left with a questionable basis for arguing that medial epicondylitis was indeed independently unfitting. The medial epicondylitis condition was designated by the MEB as not meeting retention standards, although that fact does not establish whether or not a condition is unfitting. The PEB arrives at that determination through a performance-based assessment. The joint disability evaluation tracking system (JDETS) attachment to the PEB's determination indicates that board members had doubts that this condition was independently unfitting, but that it could contribute to an "overall effect" of unfitting. The Board's threshold for countering DES fitness determinations is higher than the VASRD §4.3 (reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. The Board considered that the CI successfully completed a deployment during which the elbow pain condition began; that the condition surfaced as, essentially, an incidental complaint during a demobilization exam; and that no LIMDU was issued for this condition prior to the MEB. The Board could not find evidence in the commander's statement or elsewhere in the service file that documented any interference of the medial epicondylitis condition with performance of duties. All evidence considered, there is not reasonable doubt in the CI's favor supporting addition of medial epicondylitis as an unfitting condition for separation rating.

Regarding the cubital tunnel syndrome/ulnar neuropathy, Board precedent is that a functional impairment tied to fitness is required to support a recommendation for addition of a peripheral nerve rating at separation. The sensory component in this case has no functional implications. The motor impairment was either intermittent or relatively minor and cannot be linked to significant physical impairment. Since no evidence of functional impairment exists in this case, the Board cannot support a recommendation for additional rating based on peripheral nerve impairment. After due deliberation, the Board agreed that evidence does not support a conclusion that cubital tunnel syndrome, as an isolated condition, would have rendered the CI incapable of continued service within his Rating, and accordingly cannot recommend a separate service rating for it.

Remaining Conditions. One other condition, low high-density lipoprotein (HDL), was identified in the DES file. This is not a ratable condition IAW DoD and VA regulations. Several additional non-acute conditions or medical complaints were also documented. These conditions were not

significantly clinically or occupationally active during the MEB period, carried no attached duty limitations, nor were implicated in the non-medical assessment. These conditions were reviewed by the action officer and considered by the Board. It was determined that none could be argued as unfitting and subject to separation rating. Additionally lumbosacral strain and several other non-acute conditions were noted in the VA proximal to separation were not documented in the DES file. The CI had a service connected ratings lumbosacral strain (10%), right shoulder condition (0%), and right ankle condition (0%), all effective September 1998, eight years prior to his mobilization. At the time of the MEB history and physical examination, 9 July 2007, the CI checked no to question 12c on DD Form 2807 regarding recurrent back pain or any back pain. On DD Form 2697, Report of Medical Assessment, the CI did not list back pain as a problem. Similarly, ankle and shoulder problems are also not reported. The Board does not have the authority under DoDI 6040.44 to render fitness or rating recommendations for any conditions not considered by the DES. Even if their presence in the DES file is conceded, there was no evidence for concluding that any of them interfered with duty performance to a degree that could be argued as unfitting. The Board therefore has no reasonable basis for recommending any additional unfitting conditions for separation rating.

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 Board to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. As discussed above, PEB reliance on SECNAVINST 1850.4E for rating a combined effect of multiple conditions was operant in this case and the conditions were adjudicated independently of that instruction by the Board. In the matter of the combined effect of the left knee, left medial epicondylitis, and left cubital tunnel syndrome conditions, the Board unanimously recommends that each condition be separately adjudicated as follows: an unfitting left knee sprain condition coded 5099-5003 and rated 10% IAW VASRD §4.71a; a not unfitting left medial epicondylitis condition; and, a not unfitting left cubital tunnel syndrome/ulnar neuropathy condition. The Board unanimously agrees that there were no other conditions eligible for Board consideration which could be recommended as additionally unfitting for rating at separation.

RECOMMENDATION: The Board recommends that the CI's prior determination be modified as follows, effective as of the date of his prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Residuals, Left Knee Sprain	5099-5003	10%
Left Medial Epicondylitis	Not Unfitting	
Cubital Tunnel Syndrome/Ulnar Neuropathy	Not Unfitting	
	COMBINED	**10%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110331, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans Affairs Treatment Record

President
Physical Disability Board of Review

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS
COMMANDER, NAVY PERSONNEL COMMAND

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44
(b) PDBR ltr dtd 17 Feb 12
(c) PDBR ltr dtd 26 Dec 12
(d) PDBR ltr dtd 8 Jan 13 ICO
(e) PDBR ltr dtd 14 Jan 13 ICO

1. Pursuant to reference (a) I approve the recommendations of the Physical Disability Board of Review set forth in references (b) through (e).

2. The official records of the following individuals are to be corrected to reflect the stated disposition:

a. former USN: Disability separation with a final disability rating of 10 percent (increased from 0 percent) with entitlement to disability severance pay effective the date of discharge.

b. former USMC: Disability separation with a final disability rating of 20 percent (increased from 10 percent) with entitlement to disability severance pay effective the date of discharge.

c. former USN: Disability separation with a final disability rating of 20 percent (increased from 10 percent) with entitlement to disability severance pay effective the date of discharge.

d. former USN: Disability separation with a final disability rating of 20 percent (increased from 10 percent) with entitlement to disability severance pay effective the date of discharge.

3. Please ensure all necessary actions are taken, included the recoupment of disability severance pay if warranted, to implement these decisions and that subject members are notified once those actions are completed.

Assistant General Counsel
(Manpower & Reserve Affairs)