

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XX  
CASE NUMBER: PD1100624  
BOARD DATE: 20130206

BRANCH OF SERVICE: NAVY  
DATE OF PLACEMENT ON TDRL: 20041216  
DATE OF PERMANENT SEPARATION: 20091014

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SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty HM1/E-6 (Hospital Corpsman) medically separated for diabetes mellitus (DM) Type 1. He was treated, but did not improve adequately to fully perform his military duties or meet physical fitness standards. He was placed on limited duty (LIMDU) and underwent a Medical Evaluation Board (MEB). The MEB found his Type 1 diabetes medically unacceptable, and referred him to a Physical Evaluation Board (PEB). No other conditions were listed on the NAVMED Form 6100/1. The PEB found the diabetes condition unfitting, but not sufficiently stable for final, permanent adjudication. The CI was placed on the Temporary Disability Retired List (TDRL) with a 40% disability rating. In September 2009, a second Navy PEB was convened. He was found unfit due to DM, and separation was recommended at 20% IAW the Veterans' Administration Schedule for Rating Disabilities (VASRD). The CI accepted the PEB findings and was medically separated with 20% disability rating.

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CI CONTENTION: "My condition was severely worse than the rating I received at the time of my final decision. The VA has increased my rating due to the decline in my health. I have a letter in my record dated 14 September 2004 that I am a brittle diabetic limited by a very restricted diet and modification of daily activities and needed an insulin pump. This was not reviewed during my initial rating. The need for an insulin pump is documented throughout my health records at the time of my final decision the board of review was not aware of this and the military health system did not assist me in obtaining needed health equipment. Through the diligence of my civilian providers I was able to get the insulin pump by spending an incredible amount of my own money. In 2006 I was diagnosed with left and right leg diabetic neuropathy in May 2011 the VA increased my rating due to neuropathy secondary to Type 1 Diabetes."

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SCOPE OF REVIEW: The Board's scope of review as defined in DoDI 6040.44, is limited to those conditions which were determined by the PEB to be specifically unfitting for continued military service; or, when requested by the CI, those conditions "identified but not determined to be unfitting by the PEB." The unfitting Type 1 diabetes condition meets the criteria prescribed in DoDI 6040.44, and is accordingly addressed below. No other conditions are within the Board's purview. Any condition outside the Board's defined scope of review may be eligible for future consideration by the Board for Correction of Naval Records.

**RATING COMPARISON:**

Final Navy PEB – dated 20090928				VA – Effective Date 20041216			
Condition	Code	Rating		Condition	Code	Rating	Exam
		TDRL	Sep.				
Type 1 Diabetes	7913	40%	20%	Diabetes Mellitus, Type 1	7913	20%	20110415
↓No Additional MEB/PEB Entries↓				Left Shoulder Pain	5024	10%	20101204
				Left Knee Pain	5257	10%	20101204
				Neuropathy, Left Leg*	8599-8520*	10%*	20110415
				Neuropathy, Right Leg*	8599-8524*	10%*	20110415
				Tinea Versicolor	7813-7806	10%	20101204
				0% x 2 / Not Service Connected x 3			20101204
				Combined: 20%			Combined: 60%

\* VA ratings for Neuropathy were not in the original VA Rating Decision (VARD), but were added by a subsequent VARD dated 20110914

**ANALYSIS SUMMARY:** The Board acknowledges the CI’s assertion that the Navy may not have considered all the information in his record, and may not have assisted him in obtaining needed health equipment. For the record, the Board has neither the jurisdiction nor authority to scrutinize or render opinions in reference to asserted improprieties. Furthermore, the Board wishes to clarify that its relevant recommendations are assigned in assessment of the permanent separation and rating determination, and the TDRL rating assignment is not considered a benchmark. It is recognized, in fact, that PEB’s sometimes may apply an overly generous initial rating in order to meet the DoD requirement of 30% disability for placement on TDRL. This is in the member’s best interest at the time and does not mean that a final lower rating is unfair, even if perceived as incongruent with subjective severity from one rating to the next. The sole basis for the Board’s permanent disability recommendation is the optimal VASRD rating for disability at the time the CI is permanently separated from service. In cases encompassing a period of TDRL, although the Board’s review of fitness adjudications is relevant to the time of temporary retirement, the Board’s rating recommendations are based on severity evidenced at the time of permanent separation.

**Diabetes Mellitus (DM) Type 1.** In July 2003, the CI presented with a history of weight loss, polyuria, and polydipsia. He was diagnosed with DM and was started on Insulin & dietary restriction. Control of his blood sugar was achieved. A Navy PEB was convened in August 2004. The CI was placed on TDRL with a disability rating of 40%. The Board considered all the evidence, and determined that a 40% rating at that time was appropriate. A higher rating of 60% would require “insulin, restricted diet, and regulation of activities with episodes of ketoacidosis or hypoglycemic reactions requiring one or two hospitalizations per year or twice a month visits to a diabetic care provider, plus complications that would not be compensable if separately evaluated.” Since the treatment record does not show sufficient evidence of these findings, the Board has no basis to recommend a rating higher than 40%, at the time of initial placement on TDRL.

In January 2008, the CI had a periodic clinical re-evaluation. Blood sugar was being controlled with insulin and restricted diet. The physical examination (PE) was normal. Medically prescribed regulation of activities was not mentioned. Nineteen months later, on 12 August 2009, another clinical re-evaluation was conducted. The hemoglobin A1C was 6.4, indicating good control of blood sugar (BS). The CI reported that sometimes his BS would go over 300, but this was usually associated with dietary indiscretion. The PE was normal. Medically prescribed regulation of activities was not mentioned. In December 2010, the CI had a VA Compensation and Pension (C&P) exam. At that time, BS was being controlled with an Insulin pump and restricted diet. The CI had no active complaints or symptoms related to his DM. He denied any

episodes of ketoacidosis or hospitalization. He reported that his hypoglycemic trouble had largely resolved since he had begun therapy with the insulin pump. He was seeing his diabetic care providers every 3 to 6 months, and they had not restricted his activities. He was working as an entomologist. The CI reported that his activities of daily living and employability were not limited by his DM, except when he had difficulty finding food.

The Board carefully reviewed all evidentiary information available, and directs attention to its rating recommendation based on the above evidence. The CI required insulin and restricted diet, but did not require medically prescribed regulation of activities. Regulation of activities is when a licensed healthcare provider prescribes or recommends that a diabetic patient avoid strenuous occupational or recreational activities. In the CI's treatment record, there was not sufficient evidence that this was the case. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the diabetes condition.

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**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. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the Type 1 diabetes and IAW VASRD §4.119, the Board unanimously recommends no change in the PEB adjudication.

There were no other conditions within the Board's scope of review for consideration.

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**RECOMMENDATION:** The Board, therefore, recommends that there be no recharacterization of the CI's disability and separation determination, as follows:

UNFITTING CONDITION	VASRD CODE	RATING
Type 1 Diabetes Mellitus	7913	20%
	<b>COMBINED</b>	<b>20%</b>

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20110810, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

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Acting Director  
Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW  
BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44  
(b) CORB ltr dtd 26 Feb 13

In accordance with reference (a), I have reviewed the cases forwarded by reference (b), and, for the reasons provided in their forwarding memorandum, approve the recommendations of the PDBR that the following individual's records not be corrected to reflect a change in either characterization of separation or in the disability rating previously assigned by the Department of the Navy's Physical Evaluation Board:

- former USMC
- former USN
- former USMC
- former USMC
- former USN
- former USMC

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Assistant General Counsel  
(Manpower & Reserve Affairs)