

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
CASE NUMBER: PD1200412
BOARD DATE: 20121204

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20050816

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty 1LT/02 (11A00/Infantry), medically separated for left pectoralis tendon tear, status post (s/p) open pectoralis tendon repair and subsequent failure of the surgical repair. The CI sustained a shoulder subluxation during ranger school, followed by a pectoralis tendon tear during the flight-for life. Despite narcotic medication, orthopedic and physical therapy (PT) evaluations, an open pectoralis tendon repair with arthroscopy, the CI failed to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent U3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded left pectoralis tendon tear, s/p repair with failure as not meeting standards to the Physical Evaluation Board (PEB). The MEB forwarded no other conditions for PEB adjudication. The PEB adjudicated the left pectoralis tendon tear, s/p open pectoralis tendon repair and subsequent failure of the surgical repair condition as unfitting, rated 20%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: "The shoulder joint injury, which required a second surgery due-to a failed correction originally, has limited the use of my left arm. I also have nerve damage, which was never accessed. I have had pain for a long-time and lost my career Army due-to my service connected injury. The amount of time and energy I have put into correction, re-hab, and negative quality of life have subsequently led to a very diminished quagmire. The military was suppose to be my career; unfortunately, my injury not only discharged me, it also rendered me physically "un-fit" for duty."

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in DoDI 6040.44, Enclosure 3, paragraph 5.e. (2) 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 condition(s) "identified but not determined to be unfitting by the PEB." The ratings for unfitting conditions will be reviewed in all cases. The unfitting left pectoralis tendon tear, s/p open pectoralis tendon repair and subsequent failure of the surgical repair condition as requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below. The remaining contended condition [nerve damage] and those rated by the VA at separation listed on the DA Form 294 application are not within the Board's purview. Any conditions or contention not requested in this application, or otherwise outside the Board's defined scope of review, remain eligible for future consideration by the Army Board for Correction of Military Records.

RATING COMPARISON:

Service IPEB – Dated 20050706			VA (~3 Mos. Post-Separation) – All Effective Date 20050817			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left Pectoralis Tendon Tear, S/P Open Pectoralis Tendon Repair and Subsequent Failure of the Surgical Repair	5303	20%	Residuals Left Shoulder Dislocation with Ruptured Tendon, S/P Surgical Repair	5201	20%*	20051122
			Post Operative Surgical Scar, Left Shoulder Associated with Residuals Left Shoulder Reconstruction	7804	10%*	20061121
↓No Additional MEB/PEB Entries↓			Hypertension	7101	0%*	20051122
Combined: 20%			Not Service-Connected x 3			
			Combined: 30%*			

Left Shoulder Residuals, 5201 increased to 100% temporarily for convalescence from 20081124 then changed to 5200 at 40% from 20090201 (combined 50%). Scar, 7804, initially not rated, then rated 10% from 20050817 based on exam of 20061121. HTN increased to 10% from 20090202.

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impact that his service-incurred condition has had on his current earning ability and quality of life. It is a fact, however, that the Disability Evaluation System (DES) has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation. This role and authority is granted by Congress to the Department of Veterans Affairs (DVA). The Board utilizes DVA evidence proximal to separation in arriving at its recommendations; and, DoDI 6040.44 defines a 12-month interval for special consideration to post-separation evidence. The Board’s authority as defined in DoDI 6044.40, however, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Left Pectoralis Tendon Tear, S/P Open Pectoralis Tendon Repair and Subsequent Failure of the Surgical Repair Condition. The record documented that the CI was right-handed. There were three goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation, with documentation of additional ratable criteria summarized in the chart below.

Left Shoulder ROM	Report of Med Exam ~3 Mos. Pre-Sep	MEB ~2 Mos. Pre-Sep	VA C&P ~3 Mos. Post-Sep
Flexion (0-180°)	Decreased ROM	-	-
Abduction (0-180°)		90°	90°*
Comments: Right Hand Dominant; Surgery ~8 Mo. Pre-Sep	“Obvious healing surgical scar anterior left shoulder” decreased ROM, + tenderness to palpation (TTP) complete shoulder; decreased ROM; cranial nerve XI decreased trapezius movement	“40 degrees external rotation”; painful at extreme motion; “spasm in pectoralis muscle belly”; remarkable TTP localized to avulsed sternal head; sternal head retracted to area of lateral pectoral border; muscle agitation with stretch results in painful visible/palpable spasm	*Forward elevation 90° with significant pain; extreme TTP anterior aspect; scar 4 inches long darker pink than surrounding tissue no swelling/redness; internal/external rotation 0-45° with increased pain; pain is most limiting factor; shoulders equal in height (see text)
§4.71a or §4.73 Rating	20%	20%	20%

Following injury in December 2004, a left shoulder arthrogram demonstrated an anterior avulsion fracture and the CI underwent a left pectoralis tendon repair with arthroscopy. The MEB narrative summary (NARSUM) examination, 2 months prior to separation (6 months after

surgery) indicated that the CI had daily pain which limited his activities of daily living (ADL), an inability to carry objects greater than five pounds; problems with showering, sleeping, clothing himself, running or exercising and he required a strong narcotic (Percocet) every 4 hours for pain control. The MEB physical exam findings are summarized in the chart above. The examiner stated that “the patient has had subsequent evaluations by other orthopedic consultants with a recommendation varying from continued physical therapy to possible revision. As the initial surgeon, my recommendation has been to continue with physical therapy until all improvement has plateaued, then to perform any possible revision if there is little improvement.”

The VA Compensation & Pension examination performed 3 months after separation (11 months after surgery) noted that the CI had subluxation with overhead activity; any type of exercise caused increased shoulder pain and decreased use; occasional morning stiffness; difficulty with showering and washing in certain areas; difficulty finding a comfortable sleeping position; difficulty with going to the bathroom. The examiner also noted that the CI had frequent flare-ups which would last for 10 minutes such as putting his hand behind his head which required the CI to return the arm to a neutral position for a slow resolution of the pain. The physical exam findings are summarized in the chart above.

VA records indicate a left shoulder pectoralis major tendon rupture reconstruction on 24 November 2008 (over 3 years post-separation). March 2009 and August 2009 VA exams (4 and 9 months post-operative) documented essentially ankylosis of the left shoulder (ROMs near zero) and the VA rated the shoulder at 40% following a 100% convalescent rating.

The Board directs attention to its rating recommendation based on the above evidence. The PEB coded the left pectoralis tendon tear, s/p open pectoralis tendon repair and subsequent failure of the surgical repair condition 5303 (muscle Group III) rated 20% under the non-dominant hand rating. The VA coded the left shoulder condition 5201 (Arm, limitation of motion of at shoulder level) at 20%. All exams proximate to separation documented limited ROM to the 20% criteria (limited at shoulder level) under 5201. No exam proximate to separation approached the “midway between side and shoulder level” [which would rate 30% for the dominant and 20% for the non-dominant arm]. No exam approached the 30% (non-dominant) limitation “to 25° from side.” The Board considered the criteria for 5303 non-dominant Group II muscle rating and deliberated between the severe (30%) and moderately severe (20%) ratings with attention to VASRD §4.55 (Principles of combined ratings for muscle injuries) and §4.56 (Evaluation of muscle disabilities). The NARSUM indicated remarkable TTP localized to avulsed sternal head; sternal head retracted to area of lateral pectoral border, and “muscle agitation with stretch results in painful visible/palpable spasm.” Treatment records did not document a non-surgical wound, infection, or prolonged hospitalization. The VA exam indicated fewer muscle injury signs, but with subluxation with overhead activity and difficulties with ADLs. The Board considered the repeat surgery remote from surgery and subsequent exams and ratings had lowered probative value for rating at the time of separation. The Board concluded that the MEB exam was closest to the time of separation, and although also closer to initial surgery, was performed by the operating orthopedic surgeon and had a higher probative value.

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 left pectoralis tendon tear, s/p open pectoralis tendon repair and subsequent failure of the surgical repair condition.

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. In the matter of the left pectoralis tendon tear, s/p open pectoralis tendon repair and subsequent failure of the surgical repair condition and IAW VASRD §4.73, the Board unanimously recommends no change in the PEB adjudication. There were no other conditions within the Board's scope of review for consideration.

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
Left Pectoralis Tendon Tear, S/P Open Pectoralis Tendon Repair and Subsequent Failure of the Surgical Repair	5303	20%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120503, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF
President
Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency
(TAPD-ZB / XXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for
XXXXXXXXXXXXXXXXXXXX, AR20130000037 (PD201200412)

I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PDBR) recommendation and record of proceedings pertaining to the subject individual. Under the authority of Title 10, United States Code, section 1554a, I accept the Board's recommendation and hereby deny the individual's application. This decision is final. The individual concerned, counsel (if any), and any Members of Congress who have shown interest in this application have been notified of this decision by mail.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
 DoD PDBR
 DVA