

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX  
CASE NUMBER: PD1200595  
BOARD DATE: 20121213

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20021126

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty, SPC/E4, (92Y/Supply Specialist), medically separated for aortic and mitral valve replacement secondary to bacterial endocarditis and chronic low back pain (LBP). The CI developed low back pain in 1997 and unrelated bacterial endocarditis of his heart requiring replacement of two heart valves (mitral and aortic) in 2000. The LBP and heart conditions could not be adequately rehabilitated with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent P3/L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The MEB submitted an addendum regarding the eye condition. The PEB adjudicated the bacterial endocarditis with mitral and aortic valve replacements, requiring lifelong anticoagulation and chronic LBP without radiculopathy conditions as unfitting, rated 10% and 10%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI submitted a rebuttal, contending a left eye and dental conditions and demanded a Formal PEB (FPEB). This was withdrawn and the CI was medically separated with a 20% combined disability rating.

**CI CONTENTION:** "I left the service with severe cardiac problems and serious back problems. These problems were far worse than the 20% they were given as a combined rating. I am rated by the VA at 60% for the cardiac condition, 30% for chronic kidney disease, 20% for back condition and 20% for a radicular symptom secondary to the back condition. My combined service connected VA rating is 80%".

**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 the unfitting conditions will be reviewed in all cases. The requested radicular symptoms condition will be addressed with the back condition. The requested kidney condition is 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 20020802			VA (1 Mos. Pre-Separation) – All Effective Date 20021127			
Condition	Code	Rating	Condition	Code	Rating	Exam
Bacterial endocarditis w/mitral and aortic valve replacement	7000	10%	Bacterial Streptococcus viridians endocarditis s/p mitral and aortic valve replacement	7001-7016	30%	20021024
Low back pain w/radiculitis	5295	10%	HNP/DDD Lumbar	5293-5292	10%	20021024
↓No Additional MEB/PEB Entries↓			0% X 1 / Not Service-Connected x 3			20021024
<b>Combined: 20%</b>			<b>Combined: 40%</b>			

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the member's medical conditions, compensation can only be offered for those medical conditions that cut short a member's career, and then only to the degree of severity present at the time of final disposition. The DES has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation nor for conditions determined to be service-connected by the Department of Veterans Affairs (DVA) but not determined to be unfitting by the PEB. However, the DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time. The Board's role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation.

Cardiac Condition. The CI became severely ill with acute bacterial endocarditis (an infection of the heart valves) in April 2000 causing heart valve damage requiring replacement of the aortic and mitral valves (performed April 2000). The CI was discharged from the hospital on Coumadin and antibiotics. By July 2000, the CI was doing well with resolution of all symptoms. On 13 November 2000, a treadmill stress test was normal. A routine annual cardiac echocardiogram performed on 17 May 2001, revealed normal cardiac and valve function and mild left ventricular hypertrophy unchanged from a study one year prior. At the MEB/ narrative summary (NARSUM) evaluation, performed on 15 November 2001, 12 months before separation, the CI presented no cardiac issues. Exercise tolerance was reported as normal. The MEB physical exam recorded vital signs and cardiac exam to be normal. No evidence of Coumadin-related complications was noted. A cardiac exercise stress test on 20 June 2002, 5 months before separation, was normal with an excellent exercise tolerance of 13.5 METS (equivalent to running eight miles an hour) and normal blood pressure and heart rate responses. At the VA Compensation and Pension (C&P) exam on 24 October 2002, a month before separation, the CI reported being somewhat limited in getting around, without specific pulmonary or cardiac reference. On physical examination, a soft cardiac murmur, consistent with a prosthetic valve was noted. Remainder of the cardiac examination was normal. Echocardiogram performed on 29 October 2002, demonstrated normal cardiac and valvular function and mild left ventricular hypertrophy.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA rated the cardiac condition under different codes which have the same rating criteria IAW §4.104. The PEB rated the cardiac condition 10%, 7000 valvular heart disease, citing requirement for continuous medication (Coumadin). The VA rated 30%, 7016, heart valve replacement, citing mild left ventricular hypertrophy on echocardiogram as "marginally" meeting the criteria for that rating. A higher rating of 60% requires evidence of left ventricular dysfunction with episodes of congestive heart failure not supported by the record in evidence. The Board agreed that the CI had an outstanding result from surgery, that his cardiac function and exercise tolerance at separation were normal, and the left ventricular hypertrophy, identified on echocardiogram, but not on clinical exam, chest X-ray or EKG was mild and of mild or no functional significance based on the excellent level of exercise tolerance on the exercise stress test. The level of exercise tolerance of 13.5 METS correlates with a 0% rating (the 10% rating states METS not greater than 10, and the 30% rating states METs not greater than 7), while the mild LVH on echocardiogram supports consideration of the 30% rating. The Board noted that the evidence of the stress test was a direct assessment of functional capacity while the echocardiogram finding of mild left ventricular hypertrophy was not and the echocardiogram otherwise indicated normal function correlating with the results of the exercise stress test. VASRD §4.1, Essential of Evaluative Rating, states that the rating schedule is "primarily a guide in the evaluation of disability" in average civil occupations. While the

echocardiogram report reflected mild left ventricular hypertrophy warranting consideration of the 30% rating, the results of the stress test showing an excellent level of exercise tolerance that did not meet the METs criteria for a minimum 10% rating indicates that the CI's disability at the time of separation was not described by the 30% rating and that a 10% rating most nearly approximates the condition at the time of separation. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the majority of the Board recommends a rating of 10% for the cardiac condition.

Low Back Pain. The CI developed atraumatic chronic back pain in 1997. Magnetic resonance imaging (MRI) of the spine on 12 March 2000, revealed bulging discs at L4-5 and L5-S1 without nerve compression. The CI was treated with exercise and physical therapy (PT) with unsustained improvement. On PT evaluation performed on 8 August 2000, the CI had full lumbar flexion and extension. Motor strength was 5/5 and sensation was normal in the lower extremities. On 11 July 2001, a neurosurgeon reported no neurologic compromise and recommended continued nonsurgical treatment. At the MEB/NARSUM evaluation the CI reported being able to perform all activities of daily living and all duties to include office and warehouse work, and operation of heavy machinery. The MEB physical exam findings included flexion of 85 degrees with pain (normal 90 degrees). At the C&P exam, a month prior to separation, the CI reported being able to walk a mile and a half with pain. Findings on physical examination included flexion of 90 degrees, tenderness of the sacral area, and normal gait and reflexes. The Board directs attention to its rating recommendation based on the above evidence. In accordance with DoDI 6040.44, the Board is required to recommend a rating IAW the VASRD in effect at the time of separation. The Board notes that the 2002 VASRD standards for the spine, which were in effect at the time of separation, were changed to the current §4.71a rating standards in September 2003. The Board must correlate the above clinical data with the 2002 rating schedule (applicable diagnostic codes include: 5292 limitation of lumbar spine motion; 5293 intervertebral disc syndrome; and 5295 Lumbosacral strain). The PEB and the VA both rated the back condition 10% using different codes. The PEB rated code 5295, lumbar-sacral strain. A higher rating of 20% requires muscle spasm on extreme forward bending, loss of lateral spine motion; unilateral in the standing position, not supported by the record in evidence. The VA rated code 5292, spine, range of motion, slight, citing the reduction of extension on examination. The Board unanimously agreed that the MEB and VA examinations were equivalent and both supported a 10% rating for the back condition at time of separation. There was no evidence for ratable peripheral nerve impairment in this case, since no motor weakness was present and sensory symptoms had no functional implication. There was no evidence of incapacitating episodes for a higher rating under code 5293. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board unanimously concluded that there was insufficient cause to recommend a change in the PEB adjudication for the low back pain 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 bacterial endocarditis with aortic and mitral valve replacement condition, IAW VASRD §4.104 the Board by a vote of 2:1 recommends no change in the PEB adjudication. The single voter for dissent (who recommended 30%) submitted the appended minority opinion. In the matter of the low back pain condition, IAW §4.71a, 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:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Bacterial Endocarditis w/ Aortic and Mitral Valve Replacements	7000	10%
Low Back Pain w/ Radiculitis	5295	10%
	<b>COMBINED</b>	<b>20%</b>

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120605, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXX, DAF  
President  
Physical Disability Board of Review

Minority Opinion. The minority voter agrees with the majority's assessment of disability but does not agree that application of the VASRD allows for the flexibility in rating that the Board majority used in arriving at its recommendation. The mere presence of left ventricular hypertrophy meets the criteria for the 30% rating. The VASRD criteria for 30% states "**or** evidence of cardiac hypertrophy". Further, the report of hypertrophy was not clarified by cardiologist as being a normal variant therefore reasonable doubt would lead to a conclusion that the finding was a residual of his initial serious illness leading to heart valve replacement and indicative of an abnormal heart meeting the VASRD guideline for the 30% rating. The minority voter recommends a combined rating of 40% and permanent disability retirement.

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for  
XXXXXXXXXXXXXXXX, AR20130000744 (PD201200595)

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