RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXX
CASE NUMBER: PD1200061
BOARD DATE: 20121030

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20090527

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was active duty SPC/E-4 (35F10/Intelligence Analyst), medically separated for hypercoagulable state due to May Thurner Syndrome referred to as recurrent left lower extremity deep vein thrombosis (DVT). In March 2007, the CI was diagnosed with a left lower extremity DVT and a left-sided pulmonary embolus (PE). She was treated with anticoagulation medication. She was transferred to Brooke Army Medical Center and underwent an embolectomy and stent placement in her left iliac vein. She was also diagnosed with May Thurner Syndrome and remained on Coumadin and did well. She remained asymptomatic and in October 2007 she was doing well enough to discontinue the Coumadin. She continued to do well until March 2008 when she experienced a repeat DVT in the left lower extremity and a second PE, this time on the right side after a long car ride. Anticoagulation medication was restarted. She also underwent repeat embolectomy with intraoperative Greenfield filter. After this second DVT and PE, lifelong Coumadin anticoagulation was recommended. Hypercoagulable state due to May Thurner Syndrome referred to as recurrent left lower extremity DVT condition could not be adequately rehabilitated and the CI was unable to meet the physical requirements of her Military Occupational Specialty (MOS) or satisfy physical fitness standards. She was issued a permanent P3 profile and referred for a Medical Evaluation Board (MEB). The chronic left pleurisy condition, identified in the rating chart below, was identified and forwarded by the MEB as medically unacceptable IAW AR 40-501. The mild anemia and abnormal pap conditions, identified in the rating chart below, were identified and forwarded by the MEB as medically acceptable. The Physical Evaluation Board (PEB) adjudicated the hypercoagulable state due to May Thurner Syndrome referred to as recurrent left lower extremity DVT condition as unfitting, rated 10% with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD) and the US Army Physical Disability Agency (USAPDA) Table of Analogous Codes of 25 November 2008. The PEB noted that while the May Thurner Syndrome was congenital and exited prior to service (EPTS), the unfitting condition was permanently aggravated and was therefore assigned a disability rating. No rating deduction was made. The remaining conditions were determined to be either not disqualifying (chronic left pleurisy) or not unfitting (mild anemia and abnormal Pap) and were not rated. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: "Deep Vein Thrombosis" "Chronic Left Pleurisy" "May Thurner Syndrome"

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in the Department of Defense Instruction (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 hypercoagulable state due to May Thurner Syndrome referred to as recurrent left lower extremity deep vein thrombosis (DVT) and chronic left pleurisy conditions as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below, in addition to a review of the ratings for the unfitting conditions. Note: Chronic left pleurisy was determined to be "not disqualifying" by the PEB. The other requested

conditions [mild anemia, and abnormal PAP] are not within the Board's purview. The remaining conditions rated by the VA at separation and listed on the DD Form 294 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 Service Board for the Correction of Military Records.

RATING COMPARISON:

Service IPEB – Dated 20081215			**VA (~1 Month After Separation) – All Effective Date 20090528**			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Hypercoagulable State due to May Thurner Syndrome referred to as Recurrent Left Lower Extremity Deep Vein Thrombosis (DVT)	7799-7704	10%	Deep Vein Thrombosis with May-Thurner, Left Lower Extremity	7120	20%	20090619
Chronic Left Pleurisy	Not Disqualifying		Pulmonary Embolism with Pleurisy	6899-6817	60%	20090619
Mild Anemia	Not Unfitting		NO VA ENTRY			
Abnormal PAP	Not Unfitting					
↓No Additional MEB/PEB Entries↓			Deep Vein Thrombosis, Right Lower Extremity	7120	40%	20090619
			0% x 1/Not Service Connected x 1			20090619
Combined: 10%			**Combined: 80%**			

ANALYSIS SUMMARY: The Board acknowledges the CI's contention that suggests ratings should have been conferred for other conditions documented at the time of separation. The Board wishes to clarify that it is subject to the same laws for disability entitlements as those under which the Disability Evaluation System (DES) operates. 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. However the Department of Veterans' Affairs (DVA), operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically reevaluate said conditions for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time. 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 6040.44, however, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation and is limited to conditions adjudicated by the PEB as either unfitting or not unfitting. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Hypercoagulable State due to May Thurner Syndrome referred to as Recurrent Left Lower Extremity Deep Vein Thrombosis (DVT) Condition. The CI first experienced a left lower extremity deep venous thrombosis (DVT) with a left-sided pulmonary embolism (PE) in March 2007. She was seen multiple times before the diagnosis became clear and was eventually treated at Brook Army Medical Center. The diagnosis of May Thurner Syndrome, a congenital constriction of the left common iliac vein, was made during this hospitalization. May Thurner Syndrome is associated with leg swelling and pain, blood clots, and deep vein thrombosis due to mechanical compression of the left common iliac vein and does not result in a hypercoagulable state. The CI underwent embolectomy and a stent was placed in her left iliac vein. She was anticoagulated sequentially with heparin, Lovenox, and Coumadin.

Anticoagulation with Coumadin was continued for 6 months and then discontinued in October 2007. She remained symptom free until March 2008 when she had recurrence of a left lower extremity DVT and PE, this time right-sided. This occurred after the return trip of an approximately 18 hour long car ride despite frequent stops. She was again anticoagulated serially with heparin, Lovenox, and Coumadin and underwent embolectomy at Brooke Army Medical Center. A Greenfield filter was placed prior to the embolectomy and was then removed. At this time lifelong anticoagulation with Coumadin was recommended based on recurrent DVTs and recurrent PEs and she was then referred for an MEB.

The narrative summary (NARSUM) completed 7 month prior to separation noted a normal gait. The lower extremity exam was normal without tenderness to palpation, edema, or palpable masses or cords. However, the MEB examination completed 2 months prior noted mild, non-pitting edema of the left lower extremity and 4 to 5 coin sized bruises on both legs in various stages of healing. Her prothrombin time and international normalized ratio (INR) were therapeutic on Coumadin. Lung scans documented persistent profusion defect and this is discussed in more detail below. The examiner noted that hypercoagulability had EPTS and was not aggravated by Army duties. Although the CI was issued a permanent P3 profile with significant and multiple restrictions signed by this examiner along with another physician, the examiner stated the CI was "otherwise fit and has no duty limiting PHYSICAL limitations."

A VA Compensation and Pension (C&P) was performed on 19 June 2009, approximately 3 weeks after the CI separated from the Army. This examination notes the CI had recently been hospitalized at Wilford Hall Air Force hospital from 12 June 2009 to 18 June 2009 with DVTs in both the left and right lower extremities. A Greenfield filter was placed during this admission and the CI was taking subcutaneous Lovenox at the time of the C&P examination. The actual records from Wilford Hall are not available for review. The C&P examination reports a venous Doppler ultrasound performed on 2 June 2009 (6 days after separation) documented a deep vein thrombosis of the left lower extremity within the common femoral vein, superficial femoral vein, and partial thrombosis of the popliteal vein. Another ultrasound performed on 10 June 2009 documented venous thrombosis of the right lower extremity from the common femoral vein through the popliteal vein. The CI was using compression stockings. The physical examination of the left lower extremity noted "no heat, redness, swelling, or edema. No skin ulceration, breakdown, eczematous lesions, and pigmentation and chronic skin changes from her venous insufficiency noted." The CI had an antalgic gait that was attributed to the pain in her right lower extremity. The right lower extremity had 2+ pitting edema involving 3/4 of the leg and mild tenderness, but no heat or redness. An antithrombin III or Factor III deficiency with resultant hypercoagulability was diagnosed either during the June 2009 admission or during a hospitalization for a thrombotic stroke that occurred in October 2009 when the CI was 32 weeks pregnant.

The Board directs attention to its rating recommendation based on the above evidence. The PEB determined that while May Thurner Syndrome is a congenital condition and therefore EPTS, it was considered to be permanently aggravated by service and a disability rating was applied without any deduction. The VA made no specific mention of any condition EPTS and made no rating deductions. The PEB rated the condition analogous to the hematologic system condition of 7704 polycythemia vera. This condition is caused by the presence of an excessive amount of red blood cells and could be used to analogously rate a hypercoagulable condition. However, May Thurner syndrome is a mechanical compression of the left common iliac vein which can lead to left leg pain and swelling and deep vein thrombosis. No generalized hypercoagulability was diagnosed in this patient prior to separation and she had no hematologic abnormalities other than those linked to her medication. Her condition was due to the mechanical compression of the left common iliac vein with resultant DVTs in the left leg and pulmonary emboli. Therefore, the PEB nomenclature of "hypercoagulable state due to May Thurner Syndrome" is not clinically accurate and the analogous use of a hematologic code

is not appropriate. With the pathophysiology related to a venous disorder, the CI's condition is more appropriately rated as analogous to 7120 varicose veins. She was at risk for future DVTs and PEs due to the mechanical compression of the vein, not a hematologic abnormality. The VA rated the recurrent left lower extremity DVTs as 7120 and applied a 20% rating for a history of edema of the extremity with some changes of coloration to the extremity. While the CI did have intermittent edema with pain and fatigue in the left lower extremity, she had no swelling at either the NARSUM or the C&P examinations; therefore the 20% rating which requires persistent edema, incompletely relieved by elevation of the extremity, is not warranted. She had been wearing compression stockings and one can assume this helped relieve her swelling. Therefore a 10% disability rating is warranted under code 7199-7120. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 10% for the hypercoagulable state due to May Thurner Syndrome referred to as recurrent left lower extremity DVT condition, rated as 7199-7120.

Contended PEB Conditions. The contended condition adjudicated as not unfitting by the PEB was chronic left pleurisy condition. The Board's first charge with respect to these conditions is an assessment of the appropriateness of the PEB's fitness adjudications. The Board's threshold for countering 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 CI's permanent profile was for DVT and PE, recurrent and included many restrictions of aerobic and cardiovascular activities that can only be attributed to the recurrent PEs and resultant chronic left pleurisy condition. While the CI was allowed to walk, bike and swim only at her own pace and distance, she was prohibited from running more than one quarter mile. She was also not able to carry and fire her assigned weapon, move with a fighting load of 48 pounds for 2 miles, construct an individual fighting position, or do 3 to 5 second rushes under direct and indirect fire. The recurrent DVTs and PEs as well as the May Thurner syndrome with its increased risk for future DVT and PE together prevented her from deploying. This inability to deploy is the only restriction that can be attributed to the May Thurner Syndrome. However, this restriction would also be in place if she only had the chronic left pleurisy condition and the risk of recurrent DVT and PE was not present. The commander's letter states she was able to perform the assigned duties for her grade and MOS and that she was performing these duties. It also states the CI's medical condition and profile limitations did not affect the unit's ability to accomplish its mission and that she was able to work without an unreasonable number and duration of rest periods. However, the commander's letter was completed in October 2008, prior to the date of the permanent profile. The CI's MOS of Intelligence Analyst is not a physically demanding job and the physical restrictions imposed would not preclude her from performing the duties of this MOS. However, the physical restrictions would preclude her from performing the basic tasks required of all soldiers as described above.

Although the MEB NARSUM examiner stated in October 2008 (approximately 7 months prior to separation) that this condition was not disqualifying and could be managed, he also noted a permanent perfusion defect in both lungs noted on multiple ventilation perfusion scans that would probably be present for life. The examiner went on to say that the CI was otherwise physically fit and had no duty limiting physical limitations. However, the permanent P3 profile signed by that same examiner and a more senior physician in December 2008 documented the physical limitations noted above. Additionally, the MEB forwarded this condition in November 2008 as medically unacceptable IAW AR 40-501. The MEB Proceedings recorded on DA Form 3947 was signed by this examiner and a separate more senior physician. It appears that the two separate and more senior physicians noted that the examiner was mistaken in his assessment that the CI had no physical limitations and that the examiner had changed his opinion as well. The PEB did not formally adjudicate this condition as unfitting or not unfitting but merely quoted the NARSUM and stated that this condition was "in and of itself not

disqualifying." No rating was applied and while it can be assumed that the PEB did not find this condition to be separately unfitting, the DA Form 199 is silent on the matter. The PEB did specifically state the other two conditions forwarded by the MEB as medically acceptable were not unfitting.

The chronic left pleurisy condition did not meet physical retention standards of AR 40-501 and the inability to perform the basic soldier tasks as delineated on the permanent P3 profile and described above made the soldier unfit for continued service. As all of these physical limitations (except the specific ability to deploy) result from the chronic left pleurisy condition alone, this condition is considered unfitting. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was sufficient cause to recommend a change in the PEB fitness determination for chronic left pleurisy condition.

The C&P examination performed in June 2009, less than a month after separation from service, documented the CI had shortness of breath with any type of exertional activity, including brisk or prolonged walking. She was only able to walk 100 yards without becoming short of breath. She also had intermittent, sharp left lower chest area pain that occurred and resolved spontaneously almost every day. She had a normal oxygen saturation level at rest and was not prescribed oxygen therapy. However, she used a manual wheelchair to get around in her home. Pulmonary function testing (PFT) was completed prior to separation in March 2009 and was normal. This demonstrates the dyspnea on exertion is related to the recurrent PEs, not to asthma or any other respiratory disease.

As there is no diagnostic code for this condition, the VA rated this condition analogous to 6817 pulmonary vascular disease. They applied a 60% rating for chronic pulmonary thromboembolism requiring anticoagulant therapy. The CI required life-long anticoagulant therapy to prevent both recurrent PEs and DVTs. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 60% for the chronic left pleurisy and dyspnea due to recurrent pulmonary embolism.

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. This includes the use of the US Army Physical Disability Agency (USAPDA) Table of Analogous Codes of 25 November 2008. In the matter of the May Thurner Syndrome with recurrent left lower extremity DVT condition, the Board unanimously recommends a disability rating of 10%, coded 7199-7120 IAW VASRD §4.104. In the matter of the contended chronic left pleurisy condition, the Board unanimously agrees that it was unfitting; and, unanimously recommends a disability rating of 60%, coded 6899-6817 IAW VASRD §4.100. There were no other conditions within the Board's scope of review for consideration.

RECOMMENDATION: The Board recommends that the CI's prior determination be modified as follows; and, that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of her prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
May Thurner Syndrome with Recurrent Left Lower Extremity Deep Vein Thrombosis (DVT)	7199-7120	10%
Chronic Left Pleurisy and Dyspnea due to Recurrent Pulmonary Embolism	6899-6817	60%
	COMBINED	**60%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120113, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXX
President
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXXXX, AR20120020634 (PD201200061)

1. Under the authority of Title 10, United States Code, section 1554(a), I approve the enclosed recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) pertaining to the individual named in the subject line above to recharacterize the individual's separation as a permanent disability retirement with the combined disability rating of 60% effective the date of the individual's original medical separation for disability with severance pay.

2. I direct that all the Department of the Army records of the individual concerned be corrected accordingly no later than 120 days from the date of this memorandum:

a. Providing a correction to the individual's separation document showing that the individual was separated by reason of permanent disability retirement effective the date of the original medical separation for disability with severance pay.

b. Providing orders showing that the individual was retired with permanent disability effective the date of the original medical separation for disability with severance pay.

c. Adjusting pay and allowances accordingly. Pay and allowance adjustment will account for recoupment of severance pay, and payment of permanent retired pay at 60`% effective the date of the original medical separation for disability with severance pay.

d. Affording the individual the opportunity to elect Survivor Benefit Plan (SBP) and medical TRICARE retiree options.

3. I request that a copy of the corrections and any related correspondence be provided to the individual concerned, counsel (if any), any Members of Congress who have shown interest, and to the Army Review Boards Agency with a copy of this memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
( ) DoD PDBR
( ) DVA