RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXX
CASE NUMBER: PD1200078
BOARD DATE: 20121129

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20090323

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a National Guard SFC/E-4 (92Y40/Unit Supply Specialist), medically separated for spinal fusion L5-S1 in 2007 due to chronic back pain from degenerative disc disease (DDD), and for left knee pain. He sustained an initial back injury in 1992 and underwent an L5-S1 fusion as stated. He also has a history of four left knee surgeries between 2001 and 2006. Despite rehabilitation, he could not meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. The CI first met a Medical Evaluation Board (MEB) in November 2006 and was returned to duty with limitations. In November 2008, he was issued a permanent P2L3S2 profile and referred for a second MEB. The low back pain (LBP) and left knee pain did not meet retention standards and were forwarded to the Physical Evaluation Board (PEB). Idiopathic hypersomnia, history left (inguinal) hernia (LIH) repair, history of spermatocele surgery and major depressive disorder (MDD) conditions, were also forwarded to the PEB by the MEB as meeting retention standards. The PEB adjudicated the back and left knee conditions as unfitting, rated 10% each, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The remaining conditions were determined to be not unfitting and not ratable. The CI made no appeals and was medically separated with a 20% disability rating.

CI CONTENTION: The CI elaborated no specific contention in his application.

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. 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 20081204			VA (7 Mos. Post-Separation) – All Effective Date 20090324			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Spinal Fusion L5-S1…DDD	5241	10%	L-Spine DDD, S/P L5/S1…Fusion	5241	20%	20091031
			Mild Sensory Neuropathy, LLE	8520	10%	20091031
			Mild Sensory Neuropathy RLE	8520	10%	20091031
Lt Knee Pain …	5099-5003	10%	Lt Knee DJD	5003	10%	20091031
Idiopathic Hypersomnia	Not Unfitting		CFS w/ Idiopathic Hypersomnia	6354	10%	20091031
Hx Lt Hernia Repair	Not Unfitting		LIH, S/P Mesh Repair	7338	0%	20091031
Hx Spermatocele Surgery	Not Unfitting		Lt Spermatocelectomy	7599-7523	0%	20091031
Maj Depressive Disorder	Not Unfitting		PTSD	9411	30%	20091026
			Rt Knee Mild DJD	5003	10%	20091031
			Lt Shoulder Rotator Cuff Repair	5024	10%	20091031
↓No Additional MEB/PEB Entries↓			Rt Shoulder Rotator Cuff Repair	5024	10%	20091031
			C-Spine Mild DDD	5242	10%	20091031
			0% X 10 / Not Service-Connected x 2			20091031
Combined: 20%			**Combined: 80%**			

ANALYSIS SUMMARY:

Low Back Condition. There were three goniometric range-of-motion (ROM) evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation, as summarized in the chart below.

Thoracolumbar ROM Degrees	MEB ~5 Mo. Pre-Sep	Consult ~4 Mo. Pre-Sep	VA C&P ~7 Mo. Post-Sep
Flexion (90 Normal)	90	~90-110	60º
Combined (240)	>180	>130	160º
Comment	Limitation only from pain Noted to be a typical day	+ Moderate LS spasm	+ No paraspinal spasms or guarding
§4.71a Rating	10%	10%	20%

The CI was first seen for LBP in 1992 after a motor vehicle accident. He was next seen in 1996 after lifting a heavy object and then, over the next few years, he was seen occasionally until 2006 when he was evaluated for chronic LBP with radiation into the right lower extremity (RLE). A magnetic resonance imaging (MRI) exam performed on 10 May 2006 showed a protruding disc at L5-S1. Over the next year, he was treated in pain management with medications, duty limitations, chiropractic manipulation, physical therapy (PT) and epidural steroid injections (ESI) without resolution. On 2 May 2007 he underwent a L5-S1 posterior fusion with left transforaminal lumbar interbody fusion. His post-operative recovery was complicated by a left L5 radiculopathy manifested by numbness and weakness in extension of the left great toe. The sensory loss resolved by hospital discharge and great toe extension was normal at a 6 month post-operative check. The CI continued to have LBP and was treated with duty modification, medications and additional ESI with some improvement in his symptoms. A PT examination on 28 January 2008 noted a mildly antalgic gait, normal ROM and reduced girth of the left thigh as well as reduced strength in the left lower extremity (LLE). A pain management appointment performed on 18 March 2008 also noted a normal ROM. Radio frequency ablation of left lumbar facet nerves also provided some relief as did trigger point injections. At a 21 April 2008 neurosurgical follow-up visit, he had a normal gait with normal sensation, strength (including the LLE) and reflexes. A solid fusion was noted on X-ray. His pain persisted though. An MRI performed on 8 January 2009 showed material within the left foramen at L5-S1 which abutted the nerve root. The narrative summary (NARSUM) was dictated 15 October 2008, 5 months prior to separation. The CI reported some residual LLE numbness. On examination, he was

noted to have normal gait and heel to toe walk. Sensation, strength and reflexes were normal. Muscle bulk was normal and symmetric in his legs. The ROM was normal although the values for rotation were not included. The CI was seen in the neurology clinic a month later for his back pain and other medical issues. The ROM is above and showed normal flexion, but reduced lateral bending. He had a bilaterally positive test for nerve root irritation at 60 degrees. Muscle mass was symmetric in tone, strength and bulk. There was some possible atrophy of the left calf and quadriceps. Sensation and reflexes were normal. Gait was normal. It was thought that he could not meet his MOS requirements due to the persistent pain unless there was a problem which was surgically correctable. At a 20 April 2009 neurology evaluation, he was noted to have slight atrophy of the left thigh and calf, but with strength normal or near normal. An electromyogram was significant for a mild sensory neuropathy consistent with the previous surgery and not consistent with a radiculopathy. At the VA Compensation and Pension (C&P) exam performed on 31 October 2009, 7 months after separation, the CI reported that he was limited in walking to less than a mile and had persistent pain. No assistive devices were in use and his gait was normal. He had no spasm or guarding and the alignment of the spine was neutral. There was a sensory loss in a non-dermatomal pattern thought to be secondary to the previous surgery. Strength was reduced at 4/5 on the LLE and some atrophy was noted of the left calf. Reflexes were normal. His ROM was reduced and is above. The Board noted that the other examinations in the record following recovery from the fusion did not show a limitation in lumbosacral flexion. The CI endorsed pain with repetitive motion, but no additional loss of ROM. No incapacitating episodes were recorded. The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the back condition at 10% and coded it 5241, spinal fusion. The VA also coded the back condition as 5241, but rated it at 20% citing the reduced flexion noted on the VA C&P examination. The Board determined that this was an outlier from the remainder of the record and assigned it a lower probative value. The other examinations support no more than a 10% rating for either limitation in flexion or combined ROM. The Board also noted that the VA awarded 10% each for left and right lower extremity sensory loss, both coded 8520. 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 pain component of a radiculopathy is subsumed under the general spine rating as specified in §4.71a. The sensory component in this case has no functional implications. The motor impairment was relatively minor when present 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, 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 back condition.

Left Knee Condition. There were three goniometric ROM evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation, as summarized in the chart below.

Left Knee ROM	Ortho ~17 Mo. Pre-Sep	MEB ~5 Mo. Pre-Sep	VA C&P ~7 Mo. Post-Sep
Flexion (140 Normal)	130	115	140
Extension (0 Normal)	0	-	5 degree flexion contracture
Comment	Crepitus	Symmetric with right knee	Inc Pain with Repetition
§4.71a Rating	10%	10%	10%

The CI first was seen for bilateral knee pain in August 1995 when he presented with progressive pain for 3 months without antecedent trauma. His pain persisted and he had his first surgical

procedure on 20 February 2001 when he had "picking" of the femoral condylar surface of the left knee. Over the next few years, he also had a Carticel implantation (an injection of cartilage cells from the individual), chrondroplasty, debridement and Synvisc injection of the left knee. An MRI performed on 29 May 2008 showed intact menisci, anterior and posterior cruciate ligaments as well as medial and lateral collateral ligaments. Non-specific edema of the medial femoral condyle was noted as well as medial chondromalacia patella. Despite the surgical intervention and PT, his left knee pain persisted and he was unable to meet his MOS requirements. At the MEB exam performed on 11 September 2008, the CI reported persistent bilateral knee pain and the use of braces. The MEB physical exam noted bilateral knee pain with squatting. The narrative summary (NARSUM) was dictated 15 October 2008, 5 months prior to separation. The examiner noted a normal gait and heel to toe walking. The legs showed symmetric motor mass, strength and reflexes. The ROM was reduced, but symmetric. There was no edema. At the C&P performed on 31 October 2009 exam, 7 months after separation, the CI reported that he did not use any assistive devices but did have bilateral knee braces for strenuous activity. His pain was primarily on the inside aspect of his left knee and the CI was also tender at this location. The post-operative scars were nontender and non-adherent. A 5 degree flexion contracture was present. He had minimal retropatellar tenderness on the left without joint line tenderness. Tests for instability were negative and effusion absent. A test for meniscal injury was mildly positive on the left. With repetition, there was increased pain without further limitation in ROM. The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA both rated the left knee condition at 10% and coded it 5003, degenerative arthritis, although the PEB did so analogously. The Board reviewed alternate coding options, but none provided an advantage to the CI or better described the underlying condition. 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 knee 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. 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 low back pain and left knee pain conditions and IAW VASRD §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:

UNFITTING CONDITION	VASRD CODE	RATING
Spinal Fusion L5-S1 in 2007 due to Chronic Back Pain from DDD	5241	10%
Lt Knee Pain Evaluated as Degenerative Arthritis	5099-5003	10%
	COMBINED	**20%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120117, w/atchs

Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXX
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 XXXXXXXXXXXXXXXXXXXX AR20120022037 (PD201200078)

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

XXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
( ) DoD PDBR
( ) DVA