

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXX
CASE NUMBER: PD1200250
BOARD DATE: 20121031

BRANCH OF SERVICE: NAVY
SEPARATION DATE: 20040611

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Naval Officer, LCDR/O-4 (9640, Op Intel), medically separated for Factor II Mutation. The CI developed a blood clot in his right calf after a prolonged air flight and was determined to have a congenital blood disorder (Factor II Mutation) which can cause excessive blood clotting. He was treated with long term anticoagulation (Coumadin) and referred for a Medical Evaluation Board (MEB). The MEB forwarded Factor II Mutation as medically unacceptable IAW SECNAVIST 1850.4E citing risks of hemorrhage while anticoagulated during military service. The MEB forwarded no other conditions for Informal Physical Evaluation Board (IPEB) adjudication. The IPEB adjudicated the condition as unfitting, rated 0%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI appealed to the Formal PEB (FPEB), but withdrew his appeal, when the disability rating was adjusted to 10% by an interim reconsideration PEB. The CI made no further appeals and was medically separated with a 10% disability rating.

CI CONTENTION: The CI states: "The 10% rate was based on the assumptions that: 1.) onetime localized event, 2.) due to aggravating circumstance, 3.) not requiring lifelong meds. All three assumptions were proved false in July 2010 when I was admitted to ICU with multiple pulmonary emboli (illegible) aggravating reason & requiring lifelong meds. A full review package with 12 enclosures was submitted to the Veterans Administration in Seattle on 6 March. The case review is under my social sn. [sic] All assumptions of Med Review Board, and review by hematol/oncol [sic] clinic Bethesda 8 April 2004 proved false by medical events of July/August 2010. 3 days in ICU, easily could have died, lifelong medication."

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. 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 Board for Correction of Naval Records.

RATING COMPARISON:

Service Recon PEB – Dated 20031104			VA (3 Mos. Post-Separation) – All Effective Date 20040612			
Condition	Code	Rating	Condition	Code	Rating	Exam
Factor II Mutation	7121	10%	Deep Venous Thrombosis w/Associated Factor II Mutation	7121	10%*	20040909 & 20040922
↓No Additional MEB/PEB Entries↓			S/P Ventral Hernia Repair.....	7338	0%**	20080327
			0% X 0 / Not Service-Connected x 0			
Combined: 10%			Combined: 10%			

* Continued on VARD 20080919

**Added by VARD of 20080919 effective the day after separation.

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 Veteran 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. The Board has neither the jurisdiction nor authority to scrutinize or render opinions in reference to the CI's statements in the application regarding suspected DES improprieties in the processing of his case or quality of medical care rendered.

Factor II Mutation. The CI developed swelling in his right lower leg after a 13 hour airline flight. Doppler ultrasound study (US) obtained 12 January 2003 documented a venous clot (DVT) in the veins of his right lower leg. The CI was treated with an initial course of anticoagulation with subcutaneous heparin followed by oral anticoagulation with Coumadin without complication. Extremity swelling had resolved by 16 January 2003 and subsequent US, obtained 17 April 2004 demonstrated complete resolution of the DVT. Coagulation studies identified the Factor II Mutation condition, and Coumadin therapy was continued with a plan for indefinite treatment. CI was instructed to wear prescribed compression stockings when on airline flights. At the MEB exam performed 10 July 2003, approximately a year before separation, the patient was taking Coumadin without complication. Examination of the lower extremities was recorded as normal. Three VA Compensation and Pension (C&P) exams were performed, all approximately 3 months after separation. C&P exam, performed on 9 September 2004, the CI reported taking Coumadin without complication. Examination of the lower extremities revealed no edema, ulceration or skin changes. Motor and sensory functions and gait were normal. The examiner noted 'no conditions which would impact the veteran ability to perform normal daily routine or work related activities.' At the C&P hematology examination performed on 22 September 2004, a slight firmness of the right leg, without any evidence of serious overt post phlebitis syndrome was reported. The C&P vascular exam, performed on 25 September 2004, the CI reported some aching and swelling in both calves at the end of the day relieved by leg elevation. He noted exercising and running 3 miles at a time a few times a week without sequelae. On examination of the lower extremity, no varicosities, skin ulcers, edema, stasis pigmentation or eczematous changes were noted. The Board directs attention to its rating recommendation based on the above evidence. Both the PEB and VA rated the left leg condition 10% code 7121, post phlebitis syndrome. The 10% rating requires intermittent edema or aching and fatigue in the leg after prolonged standing or walking and symptoms relieved by elevation or compression therapy. A higher rating of 20% requires persistent edema with or without stasis changes, pigmentation or eczema. The Board unanimously agreed that there were no findings in the record in evidence which would support the 20% rating. 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 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 Factor II Mutation condition and IAW VASRD §4.104, 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
Factor II Mutation	7121	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120307, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

President
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 7 Nov 12

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

Assistant General Counsel
(Manpower & Reserve Affairs)