

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME:
CASE NUMBER: PD1200593
BOARD DATE: 20121204

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20030415

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCpl/E-3 (3381/Basic Marine), medically separated for right inguinal pain, ilioinguinal neuralgia, status post repair of recurrent right inguinal hernia repair, and incidental occurrence of left inguinal hernia. The CI did not improve adequately with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was placed on limited duty and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the right inguinal pain, ilio-inguinal neuralgia, status post right inguinal hernia repair, and left inguinal hernia conditions as unfitting, rated 10% and 0% with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: "having a hard time standing in or spot [sic] of peoirds [sic] of time. Haveig [sic] a hard time picking up heavy things. Puts a lot of strain on the nerve when it has been done. Sitting for long period of time also inflicts the nerve."

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 right inguinal pain, ilioinguinal neuralgia, status post right inguinal hernia repair, and left inguinal hernia conditions as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are addressed below. 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 IPEB – Dated 20030306			VA (~7 yrs Post-Separation) – All Effective Date 20100720			
Condition	Code	Rating	Condition	Code	Rating	Exam
Right Inguinal Pain, Ilio-inguinal Neuralgia, Status Post Right Inguinal Hernia Repair, Persistent (Pre-Existing Condition - Reduced by 0%)	7338-8630	10%	Neuritis, Right Ilio-inguinal Compression Syndrome, Status Post Right Inguinal Hernia Repair	7338-8626	10%	20110225
Left Inguinal Hernia	7338	0%	Left Inguinal Hernia	7338	0%	20110225
Combined: 10%			Combined: 10%			

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 his 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.

Right Inguinal Pain, Ilio-inguinal Neuralgia Condition. The CI underwent a right inguinal hernia repair (RIH) at age 13. At the time of his entry into the military the RIH repair was intact but a questionable left inguinal hernia (LIH) was recorded. Early in recruit training in 2002, he developed bilateral groin pain and was noted by general surgery to have a recurrence of the RIH, but no LIH. He was permitted to complete his recruit training, and in May 2002, following graduation, underwent a RIH repair with mesh material. He developed post surgical inguinal pain, which was felt to be related to ilioinguinal nerve entrapment or reaction to the mesh material. He was treated with various analgesics and anti-inflammatory medications, physical therapy and rest and underwent ilioinguinal nerve block, in August 2002 which resulted in pain increase. On 6 September 2002, general surgery offered a surgical revision with removal of the mesh and ablation of the nerve, which would address the pain condition, but might result in groin numbness and a hernia recurrence. The CI chose continued nonsurgical treatment. On neurology clinic evaluation, 9 October 2002, extension of pain radiating down the left leg with decreased strength in the right leg with decreased sensation, temperature and vibration was noted. Subsequent motor and sensory nerve conduction studies, on 7 October 2002, and magnetic resonance imaging (MRI) of the spine, on 10 October 2002, were normal. On 28 October 2002, the neurologist conceded that he had no explanation for these findings given the above studies. He noted that the decreased strength to relate to groin pain, and the sensory findings to represent a very mild femoral neuropathy not reflected by the studies. At general surgical evaluation, 12 December 2003, the diagnosis of left inguinal hernia was definitively made, and the CI offered corrective surgery which he declined. At the MEB/narrative summary (NARSUM) exam performed on 29 January 2003, 3 months prior to separation, tenderness to palpation in the right groin without recurrent hernia and a palpable LIH were recorded. Motor strength in both legs was 5/5 except trace weakness in the right upper leg secondary to pain. The examiner noted the pain to be far out of proportion to any objective nerve findings. There were no VA Compensation and Pension (C&P) examinations proximate to separation. At the C&P exam performed on 18 March 2011, over 8 years after separation, the CI reported the right hernia repair site to be stable with occasional mild local numbness and burning without radiation. On physical examination neither recurrence nor tenderness at the right surgical site was reported. A negligible left inguinal hernia, not requiring treatment, was also documented.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and the VA both rated the right groin condition 10% under §4.123 using different codes. The PEB used 8630, neuritis, ilioinguinal nerve. No higher rating can be achieved under this coding. The VA rated 8226, neuritis, femoral nerve. A higher rating of 20%, moderate, requires motor and sensory findings on examination not supported by the record in evidence. The Board unanimously agreed that physical findings at separation were related to hernia site pain and that the record in evidence did not support inclusion of any other nerve for additional rating. The Board noted the C&P evaluation, occurring over 8 years after separation, was essentially unchanged from that at separation adding credibility to the accuracy of the PEB assessment. 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 right inguinal pain condition.

Left Inguinal Hernia Condition. The left inguinal hernia (LIH) was definitively diagnosed by general surgery 12 December 2002. At that time surgery was declined by the CI. At the MEB/NARSUM examination the LIH was palpable, not visible, and non-tender. At the C&P examination, the LIH was described as negligible, asymptomatic and requiring no treatment. Both PEB and VA rated the LIH 0% code 7338, hernia inguinal, small reducible, not operated on. A higher rating of 10% requires hernia operation with recurrence, not supported by the record in evidence. 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 inguinal hernia 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 right inguinal pain condition and IAW VASRD §4.123, the Board unanimously recommends no change in the PEB adjudication. In the matter of the left hernia condition and IAW VASRD §4.114, 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
Right Inguinal Pain, Ilio-inguinal Neuralgia, Status Post Right Inguinal Hernia Repair, Persistent	7338-8630	10%
Left Inguinal Hernia	7338	0%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120603, 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 31 Dec 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 USMC
- former USMC
- former USN
- former USMC
- former USMC

Assistant General Counsel
(Manpower & Reserve Affairs)