

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX  
CASE NUMBER: PD1200652  
BOARD DATE: 20121115

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20011026

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was a National Guardsman PV2/E-2 (13F/Basic Trainee), medically separated for chronic left testicular pain. He did not respond adequately to surgical treatment and was unable to perform within his Military Occupational Specialty (MOS) or meet physical fitness standards. He was issued a permanent P3 profile and underwent a Medical Evaluation Board (MEB). Chronic left testicular pain secondary to surgery versus neuropathic in nature was forwarded to the Physical Evaluation Board (PEB) IAW AR 40-501. No other conditions appeared on the MEB's submission. The PEB adjudicated the chronic left testicular pain condition as unfitting, rated 0% with likely application of the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with a 0% disability rating.

**CI CONTENTION:** "I believe that a 0% rating was unfair for losing a testicle and having the other tied down. I still to this day have discomfort and ED from my post surgery."

**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 20010928			VA (3 Mos. Post-Separation) – All Effective Date 20011027			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Left Testicular Pain	8730	0%	Postoperative Status, Left Orchidopexy	7599-7525	0%*	20020129
↓ No Additional MEB/PEB Entries ↓			0% X 3 / Not Service-Connected x 2			
<b>Combined: 0%</b>			<b>Combined: 0%</b>			

\*increased rating to 10% effective 20020823 for combined 10%

**ANALYSIS SUMMARY:** The Board acknowledges the sentiment expressed in the CI's application, i.e., that the gravity of his condition and the significant impairment with which his service-incurred condition continues to burden him merit consideration for a higher separation rating. The Board wishes to clarify that it is subject to the same laws for service disability entitlements as those under which the Disability Evaluation System (DES) operates. 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. That role and authority is granted by Congress to the Department of Veterans Affairs (DVA), operating under a different set of laws (Title 38, United States Code). The Board evaluates DVA evidence proximal to separation in arriving at its recommendations, but its authority resides in evaluating the fairness of DES fitness decisions and rating determinations for disability at the time of separation.

Chronic Left Testicular Pain Condition. The CI developed right testicle pain during physical training for up to 36 hours prior to presenting for care. He underwent a semi-emergent right orchiectomy, (removal of the right testicle) for ultrasound confirmed right testicular torsion. He also underwent a preventive surgical measure (orchiopexy) for the left testicle at the same time, performed in January 2001. He did well until 2 months postoperatively when he began having daily pain in his left testicle. Urology reevaluated him, documented a normal postoperative exam and ultrasound. The urologist opined the pain was most likely neuropathic in nature and would resolve over time and recommended a pain clinic referral. The pain persisted, was sharp and burning lasting up to a couple of hours daily and was exacerbated with physical activity, running and standing greater than 15 minutes. Nonsteroidal pain medications did give him some relief. The profile limitations included; no sit-ups, push-ups, or running, lifting only up to 20 pounds, and performing only the walk event for the physical training test. The commander's statement corroborated the limitations and additionally documented he was unable to carry a rucksack for long distances, a requirement within his MOS. The MEB physical exam demonstrated a surgically absent right testicle and a normal left testicle. At the VA Compensation and Pension (C&P) exam after separation, the CI reported tenderness on the right side of the scrotum when he was bathing or physically active, had no voiding problems and was able to maintain an erection. The C&P exam was similar to the MEB exam with no additional findings.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA chose different coding options for the condition, but this did not bear on rating. The PEB assigned a 0% rating coded 8730 (neuralgia ilioinguinal nerve) for moderate pain which is consistent with the Veterans Administration Schedule for Rating Disabilities (VASRD) §4.124a—Schedule of ratings—neurological conditions and convulsive disorders. The VA assigned 0% rating, non compensable, coded analogous to 7525 (Epididymo-orchitis, chronic only) as the evidence did not support use of long-term drug therapy, one or two hospitalizations per year, or intermittent intensive management. Additionally, the VA noted the disability was not specifically listed in the rating schedule; therefore, it was rated analogous to a disability in which not only the functions affected, but anatomical localization and symptoms, were closely related. The Board agreed the evidence supports likely a neuropathic etiology and considered the PEB's chosen code more clinically appropriate for the functional residual pain impairment. The Board further agreed the evidence did not support a higher rating of severe under the 8730 code. There was no viable approach to a higher rating for the chronic left testicular pain which was countenanced by the VASRD. 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 chronic left testicular 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. As discussed above, PEB reliance on the USAPDA pain policy for rating chronic left testicular pain was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the chronic left testicular pain condition and IAW VASRD §4.124a, 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>
Chronic Left Testicular Pain	8730	0%
	<b>COMBINED</b>	<b>0%</b>

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120608, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans’ Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXXX  
 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, AR20120021434 (PD201200652)

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

XXXXXXXXXXXXXXXXXXXX  
Deputy Assistant Secretary  
(Army Review Boards)

CF:  
( ) DoD PDBR  
( ) DVA