

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XX
CASE NUMBER: PD1200656
BOARD DATE: 20130215

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20010915

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual was an Active Duty Marine, LCPL/E-3 (0151/Correspondence/Administration Clerk) medically separated for bilateral exertional compartment syndrome. After evaluation and 8 months of limited duty (LIMDU), the CI was found fit for duty, with the diagnosis of fascial defect left anterior compartment, by the Physical Evaluation Board (PEB) in May 2000. His left leg symptoms persisted and he developed similar symptoms on his right leg. Despite surgical treatment of his left leg, he did not improve adequately to meet the physical requirements of his Military Occupational Specialty and he was referred for a second Medical Evaluation Board (MEB) in May 2001. That MEB forwarded bilateral exertional compartment syndrome; left leg status post (s/p) anterior compartment release with recurrent anterior and lateral exertional compartment syndrome; bilateral leg pain and numbness secondary to the first two conditions; and left leg anterior compartment fascial defect s/p anterior compartment release to the Physical Evaluation Board (PEB) IAW SECNAVINST 1850.4E. The MEB forwarded no other conditions for PEB adjudication. The PEB adjudicated the bilateral exertional compartment syndrome as unfitting with a combined rating of 20% (10% for each leg) after application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The remaining conditions forwarded by the MEB, outlined in the chart below, were determined to be Category II, conditions that contribute to the unfitting condition. The CI made no appeals and was medically separated with a 20% disability rating.

CI CONTENTION: The CI states: "DUE TO ABNORMAL SENSORY NERVE FINDINGS INVOLVING BOTH PERONEAL AND SURAL NERVE SUGGEST THAT A SCIATIC NERVE BRANCH INVOLVEMENT SENSE THE PERONEAL AND SUPERFICIAL NERVE ARE INVOLVED IN THE AREA BELOW THE KNEE FROM BURN THAT OCCURRED DURING OPERATION AND SCHEDULED SURGERY." [sic]

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 the unfitting bilateral exertional compartment syndrome condition will be reviewed. The other requested conditions, peroneal, sural, sciatic nerve, and burn 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 Board for Correction of Naval Records (BCNR).

RATING COMPARISON:

Service PEB – Dated 20010712			VA (2.5 Mos. Pre-Separation) – Effective Date 20010916			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left Exertional Compartment Syndrome	5399-5312	10%	Residuals, Fasciotomy, Anterior Compartment, Left Lower Leg	7899-7804*	10%	20010724
Bilateral Leg Pain and Numbness	Category II					
Lt. Leg Ant. Compartment Fascial Defect	Category II					
Lt. Leg s/p Ant. Compartment Release	Category II					
Right Exertional Compartment Syndrome	5399-5312	10%	No VA Rating			
↓No Additional MEB/PEB Entries↓			Not Service-Connected x3			20010724
Combined: 20%			Combined: 10%*			

*VASRD dated 20040310 changed 7899-7804 to 5399-5312, added 8722-7804 at 10% and 7804 at 10% with combined rating to 30% effective 20010916

ANALYSIS SUMMARY: The Board makes note that some of the CI's contended conditions are derived from Department of Veterans Affairs (DVA) evaluations performed after separation, diagnosing conditions which were not addressed by the PEB. By policy and precedent the Board has limited its jurisdiction for recommending unadjudicated conditions as unfitting and subject to additional separation rating to those conditions which are evidenced in the core Disability Evaluation System (DES) file. The core DES file consists of the MEB referral document (NAVMED 6100/1), the PEB adjudication document, the report of medical board (including any addendums or referenced examinations), the MEB physical exam, the commander's non-medical assessment (NMA), the physical profile(s), and any written appeals or internal DES correspondence. Contended conditions which are not eligible for Board recommendations on this basis remain eligible for submission to the BCNR.

The PEB combined the left and right exertional compartment syndromes as a single unfitting condition designated as bilateral exertional compartment syndrome on the PEB proceedings document. Also noted on the PEB document, are two separate analogous codes of 5399-5312 each rated at 10% for a combined rating of 20% after application of the bilateral factor. This clearly demonstrates the PEBs designation of the left and right legs as individually unfitting.

Left Exertional Compartment Syndrome. The report of medical board prepared 4 months prior to separation noted that the CI previously had a complete evaluation and 8 months of LIMDU for the left leg compartment syndrome. He then presented to the orthopedic clinic in March of 2000 with continued left lower leg pain. He reported the initial mechanism of injury was an inversion injury to his left ankle while performing physical training that caused a lump to appear in his left shin. He was diagnosed with a fascial defect in the left anterior compartment and underwent anterior compartment fasciotomy in December 2000. Although the CI healed uneventfully, he failed to achieve a pain free level with activity. He continued to complain of numbness in the leg with slightly increased pain and numbness with exertion, particularly after he ran for 15 minutes. He also complained of recent onset of similar complaints in the right leg which were not present before December 2000. Physical examination was significant for soft anterior and lateral compartments, no palpable fascial defects and a well healed lateral left leg incision. Post exercise compartment pressures were evaluated. The left anterior compartment pressure was 30 millimeter (mm) of mercury and the left lateral compartment was 46 mm of mercury. As a control, the anterior and lateral compartments of the right leg were obtained and they were 63 and 60 respectively, but soft. The patient worked in an administrative capacity but he could not run or stand for long periods without pain and numbness in the leg. Both radiographic evaluations performed, bone scan and plain film X-rays, were normal. Final diagnoses were as summarized in the rating comparison chart above. The prognosis was that the CI's exertional compartment syndrome would continue to keep him from doing the full running, jumping, humping, heavy carrying and other activities required of the Marine Corps. Surgery was offered to the CI and he refused further surgical treatment. At the MEB exam

accomplished approximately 3 months prior to separation, the CI reported inability to stand for long periods and that he had surgery on his left leg after an injury. The MEB physical exam noted nothing related to the CI's leg pain.

At the VA Compensation and Pension (C&P) exam performed a month prior to separation, the CI reported a similar history to the one above with the following significant additional comments. The CI reported that he continued to have symptoms described as bilateral leg pain and numbness, especially in the left leg. The symptoms were constant with uncomfortable flare-ups. He denied difficulty moving his leg. Physical examination was significant for no edema or varicosities, with normal peripheral pulses in the lower extremities. Motor function was within normal limits, there was no muscle atrophy, and there was normal sensation to pinprick and touch in the upper and lower extremities. Deep tendon reflexes (DTRs) in the upper and lower extremities were symmetric and equal. His gait was normal. Examination of the knees and ankles was normal.

The Board directs attention to its rating recommendation based on the above evidence. The PEB applied the analogous VASRD code of 5399-5312 for the bilateral exertional compartment syndrome and awarded a combined rating of 20%, 10% for each leg, including the bilateral factor. The 5312 code is for a Group XII muscle disability involving the lower leg which corresponds with the CI's disabled lower legs. It is noteworthy to mention that VASRD principle § 4.55, Principles of combined ratings for muscle injuries, states that, "A muscle injury rating will not be combined with a peripheral nerve paralysis rating of the same body part, unless the injuries affect entirely different functions." The VA initially applied VASRD code 7899-7804 for the residuals, fasciotomy, anterior compartment, left lower leg condition and rated it 10% disabling. This coding and rating scheme was based on the presence of a tender, painful scar from the surgical procedure. Three years later, the VA changed the code to 5399-5312 for the residuals, fasciotomy, anterior compartment, left lower leg condition and continued the 10% rating with the day after separation being the effective date. This change in rating occurred after a more thorough review of symptoms revealed that the disability warranted a separate evaluation for the muscle injury. This changed VA rating corresponded with the PEB's adjudication. The VASRD code 5312 relies on designations of slight, moderate, moderately severe and severe muscle disability for arriving at the appropriate rating evaluation. This rating scheme entails a judgment call regarding the severity of muscle disability, especially between both moderate levels and the severe level distinction. A rigid assessment could require 3/5 or worse strength testing to merit the moderate rating. More liberal rating applies any objective motor impairment or atrophy as a threshold for the moderate designation. In this case, the only impairment was due to pain as there was no motor impairment present at the time of separation. The impairment due to pain was more than slight as it resulted in curtailment of the CI's military career but did not cross into the severe category; therefore, it was either moderate or moderately severe. There is no evidence present for review that gives the Board reason to recommend an increased in the rating level to the next higher moderately severe, 20%, level. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the left leg exertional compartment syndrome condition.

Right Exertional Compartment Syndrome. As previously elaborated, the PEB's application of two separate ratings for the bilateral exertional compartment syndrome indicated that both legs were judged to be unfitting. The clinical information present in the left exertional compartment syndrome section above is directly applicable to the right exertional compartment syndrome and there is no additional information specific to the right exertional compartment syndrome condition at the time of separation.

The Board directs attention to its rating recommendation based on the above evidence. The same discussion present in the rating recommendation section above is applicable here also. The PEB applied the analogous VASRD code of 5399-5312 for the bilateral exertional compartment syndrome and awarded a combined rating of 20%, 10% for each leg, including the bilateral factor. It is notable that the CI's application for service-connection for the right leg compartment syndrome was denied by the VA. The evidence in the service treatment record present for review indicates that the right compartment syndrome had only become symptomatic within 4 months of separation. There had been no attempt to treat this new condition either conservatively or with established surgical procedures prior to separation. The CI's physical activity had already been limited by the left leg compartment syndrome so there was no evidence of any functional impairment due to the right leg condition. The Board's deliberation determined that application of VASRD code 5312 would result in a rating of slight, 0%, for the CI's right exertional compartment syndrome and would be detrimental to the CI's combined disability rating. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the right leg exertional compartment syndrome 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 left leg exertional compartment syndrome condition and IAW VASRD §4.73, the Board unanimously recommends no change in the PEB adjudication. In the matter of the right leg exertional compartment syndrome condition and IAW VASRD §4.73, 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
Left Exertional Compartment Syndrome Condition	5399-5312	10%
Right Exertional Compartment Syndrome Condition	5399-5312	10%
	COMBINED (w/ BLF)	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120606, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

X
Acting Director
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 04 Apr 13

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:

- xformer USMC
- xformer USN
- xformer USMC
- xformer USMC
- xformer USN
- xformer USMC
- xformer USMC
- xformer USN
- xformer USMC
- xformer USN
- xformer USMC

x
Assistant General Counsel
(Manpower & Reserve Affairs)