

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200681
BOARD DATE: 20130103

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20020131

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCPL/E-3 (3051/Warehouse Clerk), medically separated for reactive airway disease. The condition first presented in January 2001 and required hospitalization. The CI did not improve adequately with treatment to meet the physical requirements of his Military Occupational Specialty or satisfy physical fitness standards. He was placed on limited duty [LIMDU] and referred for a Medical Evaluation Board (MEB). The MEB forwarded reactive airway disease and vocal cord dysfunction to the Physical Evaluation Board (PEB) as medically unacceptable IAW SECNAVINST 1850.4E. No other conditions appeared on the MEB's submission. The PEB adjudicated the reactive airway disease condition as unfitting, and assigned a rating of 10%. The vocal cord dysfunction (VCD) condition was determined to be Category II: conditions that contribute to the unfitting condition. The CI made no appeals, and was medically separated with a 10% 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 Board for Correction of Naval Records.

RATING COMPARISON:

Service IPEB – Dated 20011210			VA (1 Mo. Pre -Separation) – All Effective Date 20020201			
Condition	Code	Rating	Condition	Code	Rating	Exam
Reactive Airway Disease	6602	10%	Reactive Airway Disease	6602	60%	20020111
Vocal Cord Dysfunction (Laryngeal Dyskinesia)	CAT II		Laryngeal Dyskinesia	6516	0%	20020111
↓No Additional MEB/PEB Entries↓			Left Subacromial Impingement and Strain	5299-5201	10%	20020111
			Right Scaphoid Fracture	5299-5215	10%	20020111
			Left Ankle Sprain	5299-5271	10%	20020111
			Lumbar Strain	5295	10%	20020111
						0% X 2 / Not Service-Connected x 1
Combined: 10%			Combined: 70%			

ANALYSIS SUMMARY:

Reactive Airway Disease Condition. Bronchospasm first presented in January 2001 while exercising and required hospitalization at that time. Pulmonary function test (PFT) results on 21 March 2001 showed an FEV1 of 95% of predicted normal and an FEV1 / FVC ratio of 79%. In July 2001 the CI was briefly hospitalized for observation when diagnosed with VCD, a condition characterized by paradoxical closure of the vocal cords during inspiration. Follow-up with a speech therapist on 8 August 2001 indicated that no further episodes of VCD had occurred and that it was likely induced by his asthma. No further mention of symptomatic VCD was made in the outpatient record. A review of all clinical entries was performed to assess frequency of visits to a physician for care of an asthma exacerbation. There were two emergency room visits for asthma, one in January 2001 and one in April 2001; both visits required systemic steroids. Of the few primary care visits for asthma between January and April 2001, possibly one of them could be considered as necessary for an exacerbation. There were seven visits to the pulmonologist between April and December 2001. Only one of those could be considered related to an acute exacerbation, which was the event leading to admission for VCD in July 2001. This was the last visit to a physician that was possibly required for care of an exacerbation. No further systemic steroids were given after the April 2001 emergency room visit. The narrative summary (NARSUM) prepared 4 months prior to separation noted that the CI continued to experience daily episodes of respiratory distress, as well as bronchospasm with exercise. Albuterol and Singulair were mentioned as currently used medications, but frequency was not specified. However, an outpatient note written on the same day by the same examiner stated: "Continued respiratory distress every night with maximal medical therapy." The list of prescribed medications included an inhaled steroid. No mention of further episodes of VCD was made. At the VA Compensation and Pension (C&P) exam 3 weeks prior to separation the CI reported that weather changes or any activity caused a flare up of his asthma. He used an inhaled bronchodilator and an inhaled steroid daily, and was reported to have had "six treatments at the hospital." Details of these episodes were not provided. He also reported occurrences of VCD two or three times per month that caused hoarseness for 3-4 days. Physical examination revealed no wheezing, although expiration phase of the respiratory cycle was prolonged. PFTs could not be performed due to severe bronchospasm.

The Board directs attention to its rating recommendation based on the above evidence. A compensable rating for asthma is predicated on the frequency of bronchodilator use, on the use of systemic or inhaled steroids, or on PFT results. The PEB's 10% rating and the VA's 60% rating were both assigned under the VASRD code for asthma, 6602. A 10% rating is justified by intermittent inhalational or oral bronchodilator therapy; or an FEV1 of 71-80% predicted, or an FEV1 / FVC ratio of 71-80%. In this case, the FEV1 / FVC ratio of 79% meets the 10% criteria. However, in considering the criteria for a higher rating, the Board members agreed that the CI required daily bronchodilator use and inhalational anti-inflammatory medication, either of which alone justifies a 30% rating. The criteria for the next higher 60% rating are "at least monthly visits to a physician for required care of exacerbations, or; intermittent (at least three per year) courses of systemic (oral or parenteral) corticosteroids." The VA assigned the 60% rating on the basis of frequent visits to a physician. Board members agreed however that evidence presented above does not meet the 60% criteria. The last visit to a physician required for care of an exacerbation was in July 2001; the remaining visits were scheduled follow ups for maintenance management, not exacerbation management. The Board also considered the VCD condition diagnosed in July 2001, considered a Category II condition by the PEB and rated 0% by the VA. After follow up with the speech therapist in August 2001, there were no further documented complaints related to VCD symptoms in the service treatment record and no further visits required for care of the condition. The Board concluded therefore that this condition could not be recommended for additional disability rating. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board recommends a disability rating of 30% for the reactive airway disease 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. In the matter of the reactive airway disease condition, the Board unanimously recommends a disability rating of 30%, coded 6602 IAW VASRD §4.97. In the matter of the VCD condition the Board unanimously recommends no change from the PEB determination as not unfitting. There were no other conditions within the Board's scope of review for consideration.

RECOMMENDATION: The Board recommends that the CI's prior determination be modified as follows; and, that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of his prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Reactive Airway Disease	6602	30%
	COMBINED	30%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120604, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXX
President
Physical Disability Board of Review

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS
COMMANDER, NAVY PERSONNEL COMMAND

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44
(b) PDBR ltr dtd 29 Jan 13 ICO XX
(c) PDBR ltr dtd 15 Jan 13 ICO XX
(d) PDBR ltr dtd 22 Jan 13 ICO XX

1. Pursuant to reference (a) I approve the recommendations of the Physical Disability Board of Review set forth in references (b) through (d).

2. The official records of the following individuals are to be corrected to reflect the stated disposition:

a. XXXXXXXXX former USN: Disability retirement with a final disability rating of 30 percent with retroactive placement on the Permanent Disability Retired List effective 23 October 2002.

b. XXXXXXXXXXX former USMC: Disability retirement with a final disability rating of 30 percent with retroactive placement on the Permanent Disability Retired List effective 31 January 2002.

c. XXXXXXXXXXX former USMC: Disability separation with a final disability rating of 20 percent (increased from 10 percent) with entitlement to disability severance pay effective 30 September 2002.

3. Please ensure all necessary actions are taken, included the recoupment of disability severance pay if warranted, to implement these decisions and that subject members are notified once those actions are completed.

XXXXXXXXXXXXX
Assistant General Counsel
(Manpower & Reserve Affairs)