

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XX
CASE NUMBER: PD1201204
BOARD DATE: 20130208

BRANCH OF SERVICE: NAVY
SEPARATION DATE: 20030428

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty EWSA/E-2 (Electronic Warfare Technician), medically separated for patellofemoral pain syndrome (PFS), left knee. The left knee condition could not be adequately rehabilitated to meet the physical requirements of her rating or satisfy physical fitness standards. She was placed on light duty and referred for a Medical Evaluation Board (MEB). The MEB forwarded PFS (left knee) and patellar tendonitis (left knee), conditions identified in the rating chart below, to the Physical Evaluation Board (PEB). The PEB adjudicated the PFS (left knee) condition as unfitting, rated 10%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The patellar tendonitis (left knee) condition was determined to be Category II. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: “Was told it was a condition that would clear up eventually. It has not as of yet and has gotten worse over the years.”

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 20030311			VA (~2 Mos. Post-Separation) – All Effective Date 20030429			
Condition	Code	Rating	Condition	Code	Rating	Exam
PFS, Left Knee	5299-5003	10%	S/P Left PFS w/ Tendonitis	5257	10%	20040304
Patellar Tendonitis, Left Knee	Cat II					
↓ No Additional MEB/PEB Entries ↓			Mechanical Low Back Pain	5295	10%	20040304
			Not Service-Connected x 1			20040304
Combined: 10%			Combined: 20%			

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment and worsening severity with which her service-incurred condition continues to burden her. It is a fact, however, that the Disability Evaluation System has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation. This role and authority is granted by Congress to the Department of Veterans Affairs.

Patellofemoral Pain Syndrome (PFS), Left Knee Condition. The CI's history revealed that she developed left knee pain during boot camp in May 2002. Since that time she has not been able to run due to pain. Despite an extensive evaluation and attempts at treatment and rehabilitation the CI continued to have pain that limited her ability to perform her duties of a sailor. Exacerbations of left knee pain occurred with any strenuous activity such as running, or climbing stairs and with prolonged sitting. Treatment records indicated no objective findings of knee locking, instability, effusions, gait disturbance, or significant limitation in range-of-motion (ROM). Both X-Ray and magnetic resonance imaging (MRI) found mild osteoarthritis of the left knee. At the MEB/NARSUM evaluation on 11 November 2002, 5 months prior to separation, the CI noted no catching, instability, locking or swelling of the knee. On physical examination knee flexion was normal, without joint line tenderness. Clinical tests for knee stability were normal. At the VA Compensation and Pension (C&P) exam on 28 April 2004, 11 months after separation, the CI noted some 'locking and giving away of the knee'. On physical examination gait and ROM were normal with mild crepitus, and slight joint pain with repetitive motion.

The Board directs attention to its rating recommendation based on the above evidence. The PEB rated 10% IAW VASRD § 4.59 (painful motion). The VA rated the condition at 10% coded 5257 (recurrent subluxation or lateral instability) based on CI's report of locking. The Board adjudged that the record sufficiently documented pain on motion at the 10% rating under code 5003. The Board agreed that the condition was not compensable under ROM codes 5260 and 5261, and no higher rating than 10% achievable under coding for instability, 5267, 5258 or 5262. There is no VASRD sanctioned pathway to a higher rating under any appropriate code. The Board opined that the patellar tendinitis condition was an integral part of the knee pain pathology and could not be recommended for additional rating IAW VASRD §4.14 (avoidance of pyramiding). 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 knee 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 knee condition, 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
Patellofemoral Pain Syndrome Left Knee	5299-5003	10%
	COMBINED	10%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120609, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans' Affairs Treatment Record

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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 8 Mar 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:

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

Assistant General Counsel
(Manpower & Reserve Affairs)