

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 July 2024

DOCKET NUMBER: AR20230010540

APPLICANT REQUESTS: in effect, reconsideration of his prior request for physical disability retirement in lieu of physical disability separation with severance pay through the inclusion of his condition of unstable deep tissue scars as an unfitting, ratable condition

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- self-authored statement
- Army Board for Correction of Military Records (ABCMR) Record of Proceedings in Docket Number AR20220005453, dated 25 April 2023
- ABCMR letter, dated 18 May 2023

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20220005453 on 25 April 2023.

2. The applicant states:

a. He is requesting reconsideration of the prior ABCMR decision. In the ABCMR letter dated 18 May 2023, he was informed that the Board had denied his application and that he could request reconsideration of he could provide new evidence or argument that was not considered by the Board when it denied his original application.

b. He has thoroughly read the Record of Proceedings and has found some inconsistencies and omissions he would like reconsidered. The Record of Proceedings incorrectly states in multiple paragraphs that the only issue he presented to the Board which was not addressed by the Physical Disability Board of Review (PDBR) is his complaint of his great right toe numbness. This statement is incorrect. The only condition considered by the PDBR was arthritis. His deep tissue scars, one of which is unstable and continues to cause pain and drainage, were not considered by the PDBR.

c. In the prior Record of Proceedings, the medical reviewer also refers to his unstable and deep tissue scars more than once, and they are referred to as having not been considered by the Physical Evaluation Board (PEB). Per Army Regulation 40-501 (Standards of Medical Fitness), paragraph 3-14, states scars and keloids so extensive or adherent that they seriously interfere with function of an extremity are unfitting and cause for referral to a Medical Evaluation Board (MEB).

d. While on active duty, he sought medical attention to request a permanent physical profile from running due to the unstable deep tissue scar pain and drainage. The doctor then began focusing on his arthritis. The arthritis is what ultimately led to his PEB and medical discharge. The deep tissue scar that seriously interfered with and continues to interfere with his foot is a disqualifying medical condition and should have been considered. Please have the Board reconsider his case and include the unstable deep tissue scar as an additional disqualifying condition.

e. For the sake of further clarification to the current Board, the applicant's statement in his prior case will be briefly summarized. In his previous application to the ABCMR, the applicant indicated he suffered an injury to his right foot in Panama in 1999, that required surgery a few days later. The surgery was performed incorrectly by a Panamanian doctor in a Panamanian hospital. When he reported to his follow-on duty station at Fort Rucker, AL, he was advised by an orthopedic surgeon that there were issues with the surgery and its outcome. The applicant had multiple complications from the surgery, including arthritis, scar tenderness/abscess, numbness in the right great toe, and loss of motion. He was later separated for the conditions associated with this injury and surgery. He also has three deep tissue scars (diagnostic code 7801) and one unstable scar (diagnostic code 7804), which he believes should be rated at 10 percent and 20 percent disabling, respectively, but were not considered by his MEB and PEB.

3. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant entered active duty on 26 October 1993 where he attended Warrant Officer Candidate School and was honorably discharged on 14 March 1994, to accept a commission or warrant in the Army.

4. On 15 March 1994, the applicant was appointed a Reserve warrant officer in the rank of warrant officer one (WO1) and was concurrently ordered to active duty to fulfill his active duty commitment.

5. A physical profile is used to classify a Soldier's physical disabilities in terms of six factors or body systems, as follows: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric) and is abbreviated as PULHES. Each factor has a numerical designation: 1 indicates a high level of fitness, 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that

performance of military duties must be drastically limited. Physical profile ratings can be either permanent (P) or temporary (T).

6. In his prior application, the applicant provided multiple pages of service medical records, dated between April 1999 and June 2000, which have been provided in full to the Board for review. They are in many instances illegible, but in pertinent part, they show:

a. The applicant sustained a right foot Lisfranc injury (midfoot dislocation) on or about 8 April 1999, and was seen by Orthopaedic Surgery on multiple occasions to include a pre-operative visit on 16 April 1999. He subsequently underwent open reduction internal fixation (ORIF) surgical repair of the foot later that month.

b. A medical note dated 25 June 1999 shows he was seen as a follow-up to his right foot surgery. He was well-healed, and the hardware was removed. The was cleared by Orthopedics for a physical training (PT) profile as needed. He was able to run, duck walk, squat jump, hop on foot.

c. A medical note dated 1 November 1999, shows he was seen for a follow-up with complaints of pain and swelling of the midfoot. He underwent incision and drainage (I&D) of right foot abscess in November 1999.

d. He was again seen for his right foot on 22 May 2000, with complaints of swelling and a history of infection. The notes show a physical profile rating of "2" in factor P should be considered for an alternate aerobic event.

e. On 21 June 2000, he was seen again for right foot pain status post Lisfranc injury and ORIF. The comments show he should be evaluated for continued ability to perform flight duties and P2 profile. The applicant indicated he was doing well besides occasional flare-ups of wound and had no problem flying. He did not want a permanent profile.

7. A Standard Form 88 (Report of Medical Examination) shows the applicant underwent a commissioning physical on 6 November 2000, where he was found qualified for appointment as a commissioned officer with no physical profile listed. The summary of defects and diagnoses shows a normal exam, and the clinical evaluation does not indicate any abnormality with his feet.

8. A U.S. Total Army Personnel Command memorandum, dated 14 December 2001, shows the applicant was appointed a Reserve commissioned officer of the Army, in the rank of second lieutenant on an unspecified date. Corresponding Total Army Personnel Command Orders, likewise, dated 14 December 2001, ordered the applicant to active duty to fulfill his active army requirement, with a report date of 30 April 2002.

9. A second DD Form 214, covering the applicant's period of service in the Regular Army as a warrant officer, from 25 March 1994 through 3 February 2002, shows he was honorably discharged for miscellaneous reasons and credited with 7 years, 10 months, and 19 days of honorable active duty this period.

10. A third DD Form 214 shows the applicant entered active duty on 4 February 2002.

11. The applicant's Officer Record Brief (ORB) dated 29 June 2002, shows his PULHES as 111111.

12. With his prior application, the applicant provided multiple service medical records dated between January 2005 – June 2005, all of which have been provided in full to the Board to review, and in pertinent part show he was seen on multiple occasions between those dates after being grounded for right foot pain due to arthritis. A Southern Bone and Joint Specialist is following him for right foot arthritis related to prior operation of his foot from a fracture requiring screws, pins (hardware) and as a result has developed arthritic changes where the hardware was placed. He is currently on permanent profile and has significant limitations in his right foot due to arthritic changes. He has a history of infection (abscess) related to bone chips in his right foot. X-rays reflect metallic foreign body at the plantar aspect of the first metatarsophalangeal and arthritic changes. His assessments repeatedly reflect traumatic arthritis of the right foot.

13. The applicant's DA Form 3349 (Physical Profile) and DA Form 7652 (Disability Evaluation System (DES) Commander's Performance and Functional Statement), are not in his available records for review and have not been provided by the applicant.

14. A partial undated MEB Narrative Summary (NARSUM) has been provided in full to the Board for review and shows in pertinent part:

a. The applicant's chief complaint is chronic severe right foot pain.

b. His listed diagnoses are:

- posttraumatic degenerative arthritis of previous right foot Lisfranc fracture
- secondary mid foot degenerative arthritis
- note, unstable deep tissue scars are not listed as a diagnosis

c. The conclusions show the applicant's chronic condition may not meet retention standards and therefore, he was referred to an MEB for further disposition.

15. The applicant's DA Form 3947 (MEB Proceedings), DA Form 199 (Informal PEB Proceedings), DA Form 199-1 (Formal PEB Proceedings), Department of Veterans

Affairs (VA) Compensation and Pension (C&P) Exam, and VA Rating Decision are not in his available records for review and have not been provided by the applicant.

16. The applicant's third and final DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged on 3 September 2005, under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), due to disability with severance pay, with corresponding separation code JFL. He was credited with 3 years and 7 months of net active service this period.

17. A DD Form 294 (Application for a Review by the PDBR of the Rating Awarded Accompanying a Medical Separation from the Armed Forces of the United States) shows the applicant applied to PDBR on 8 September 2015, requesting a review of his disability separation to include all of his conditions.

18. A PDBR Record of Proceedings, dated 14 July 2017, shows:

a. The panel's scope of review is limited to review of disability ratings assigned to those conditions determined by the PEB to be unfitting for continued military service and, when specifically requested by the applicant, those conditions identified by the PEB, but determined to be not unfitting or non-compensable.

b. Data extracted from the available evidence of record reflects the applicant was medically separated for the condition of posttraumatic arthritis, right foot, with a disability rating of 10 percent.

c. A rating comparison shows the PEB reflects the unfitting condition as posttraumatic arthritis, right foot, code 5099-5003, rating 10 percent, while the VA Rating shows the condition as status post fracture at second and third metatarsal cuneiform joint with traumatic arthritis, code 5010-5284, rating 10 percent.

d. A 14 November 2005 VA C&P evaluation shows right foot flare-ups with scars present on the top of the right foot, on the lateral foot, and below the right great toe. There is a 1-inch deformity at the base of the right great toe.

e. The panel discussed the severity of the applicant's condition at the time of his separation and determined a moderately severe rating with 20 percent is not unreasonable, since he had an antalgic gait, range of motion was partial at the metatarsal joints, with pain and tenderness with ongoing motion, and a 1-inch deformity at his great toe.

f. The board findings show a recommended disability rating of 20 percent for the applicant's posttraumatic right foot condition. A single voter dissent recommended no change and elected not to submit a minority opinion.

19. Based on the PDBR Record of Proceedings, the available evidence of record does not reflect that the applicant's painful deep tissue scars were a diagnosis referred to or considered by the PEB and subsequently determined to be either unfitting or not unfitting.

20. On 6 September 2017, the Deputy Assistant Secretary of the Army (Review Boards) rejected the recommendation of the PDBR and accepted the Board's minority recommendation that the applicant's disability rating remain unchanged.

21. A letter from the Deputy Assistant Secretary of the Army (Review Boards) to the applicant's Member of Congress, dated 13 March 2018, shows she thoroughly read her letter, understood her concerns, and as a result referred the applicant's case for an independent external review. Based upon that review, the Deputy Assistant Secretary of the Army (Review Boards) accepted the majority recommendation of the PDBR to modify the applicant's disability rating to 20 percent without recharacterization of his separation.

22. The applicant previously applied to the ABCMR in April 2022, requesting physical disability retirement in lieu of physical disability separation with severance pay, through the addition of multiple conditions not previously considered. Included among those conditions is deep tissue scars, one of which is unstable.

23. U.S. Army Installation Management Command Orders 229-0501, dated 17 August 2022, amended the applicant's prior separation orders dated 3 September 2005, to reflect 20 percent disability rating in lieu of the prior 10 percent disability rating.

24. The ABCMR Record of Proceedings n Docket Number AR20220005453, dated 25 April 2023., shows the Army Review Boards Agency (ARBA) medical adviser as well as the board discussion section both indicate the only issue presented by the applicant which was not addressed by the PDBR is the complaint of right great toe numbness, which is not accurate. On 25 April 2023, the Board denied the applicant's request for physical disability retirement in lieu of physical disability separation with severance pay, determining the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of the case are insufficient as a basis for correction of the applicant's records.

25. As a result of the finality of the PDBR's decision, the scope of the current Board's review is limited to those conditions which were **not** considered by the PDBR and **not** determined by the PEB to be unfitting for continued military service.

## 26. MEDICAL REVIEW:

1. This is a request for reconsideration of a 2023 Board decision. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) the VA's Joint Legacy Viewer (JLV). The previous PDBR proceedings and ABCMR proceedings including the prior ARBA medical review were included. The entire case was carefully reviewed. Ultimately, the applicant seeks physical disability retirement. In his 2022 ABCMR application, he stated the prior PDBR had only addressed his foot arthritis. In the statement dated 29Apr2022, he requested for the ABCMR to review his 'deep tissue scars, unstable scars, and nerve damage'. The previous ARBA Medical review specifically addressed the 'nerve damage' contention. In the reconsideration request, he contends that he has three deep tissue scars. He states that the two deep tissues scars should have been rated at 15% under 7801; and the unstable scar should have been rated at 20% under 7804. After the Board's denial, in his 08Jun2023 request for reconsideration, the applicant contends the Board did not consider his scar conditions. This ARBA Medical Reviewer reconsideration response will focus on the applicant's specific request concerning his foot scars.

2. The applicant entered active service 16Mar1994. His MOS was Pilot. He was discharged 03Sep2005 AR 635-40 para 4-24B(3) for disability, severance.

3. The applicant states that deep tissue scars, one being unstable, were not considered by the Board. The applicant states the unstable scar continues to cause pain and drainage and contends that it is disqualifying medical condition. He cites AR 40-501,3-24(x): Scars and keloids. So extreme or adherent that they seriously interfere with the function of an extremity. He also stated that while on active duty, he sought medical attention to request a permanent profile from running due to unstable deep tissue scar pain and drainage and the provider began focusing on the arthritis.

a. 08Apr1999 Chronological Record of Medical Care. 4<sup>th</sup> toe base fracture.

b. April 1999, the applicant underwent open reduction internal fixation (ORIF) for Lisfranc (tarsal dislocation) fracture in the right foot in Panama.

c. 06Oct1999 Orthopedic Clinic Lyster ACH. The plan was to remove the pins (surgical hardware) in 6 weeks.

d. 02Nov1999 Orthopedic Clinic Lyster ACH. The applicant complained of pain at medial aspect of the midfoot where the incision was made. An abscess was noted. After injection of lidocaine (topical pain medication), the abscess was incised and

drained (I & D). A substance was noted, questionable for calcification vs cartilage and was sent to pathology. The wound was packed and covered. There was decreased swelling and no erythema at the follow-up visit later in November.

e. 22May2000 Right Foot Film Lyster ACH. Posttraumatic/surgical changes as well as early degenerative (arthritic) changes were noted at the 2<sup>nd</sup> metatarsal cuneiform joint.

f. 22May2000 Chronological Record of Medical Care. He was ambulatory with normal gait. There was tenderness at one incision site with some local scarring and increased induration (thickening of the skin as a result of inflammation, hyperemia, infiltration etc.). There was no erythema or deformity. There was full ROM. The assessment noted early arthritic changes in the right foot. The plan included placement on a P2 profile.

g. 06Nov2000 Report of Medical Examination for commissioning did not note any abnormalities in the foot exam nor were scars described during the skin exam.

h. 04Mar2005 Orthopedics Eisenhower AMC. The visit was to determine fitness for duty. The specialist's exam noted that there was tenderness to palpation of the midfoot over the scar. They also observed that "wounds were well healed". Orthopedics assessed the current disability requiring referral to the MEB as "Status post (S/P) ORIF with hardware removal right Lisfranc, now with arthritis midfoot".

i. 16Mar2005 Southern Bone & Joint Specialist. The note mentioned tenderness over the Lisfranc joint medially and laterally. The provider endorsed that the foot injury complicated by posttraumatic arthritis caused him problems with activities. Scars that were painful or otherwise were not mentioned.

j. 30Mar2005 Aviation Medicine Clinic, Ft Rucker. Orthopedics assessed the applicant was unable to perform physical activity and was unfit to function as a soldier in duties requiring weight bearing activities on the right foot.

k. 01Apr2005 Physical Therapy Lyster ACH. Consult was requested due to pain in the right foot which was sometimes unbearable making it difficult to bear weight.

l. 2005 MEB NARSUM exam. There was no mention of the surgical scars or symptoms related to scars.

m. 14Nov2005 General Medical C & P Examination. The applicant reported that he had been an instructor in tactics class in 1999 and a student fell on his right foot fracturing it. He reported right foot pain across the top of his foot. He wore custom orthotics he inserted in his shoes which helped his pain. He did not have to wear



special shoes. He no longer runs or plays sports because of the pain in his foot. He also avoids prolonged walking and standing. And finally, he avoided lifting more than 50 pounds because of the pain in his right foot. He denied skin problems. Examination of the skin revealed a 3.5 in scar on the top of his right foot. He also had two 0.5 in scars on the lateral right foot below the right great toe from previous I & D of an abscess. Scar symptoms, for example scar pain or tenderness were not reported. Skin sloughing or other sign of scar instability was not noted. In addition, ongoing erythema, swelling, tenderness, discharge, or wound dehiscence (separation of wound edges) was also not noted. A scar condition was not diagnosed.

4. Almost eighteen years after discharge, the applicant presented reporting scarring on the foot secondary to surgical incisions that were painful (06Jul2023 Physician Note, VAMC). He stated the pain was made worse with excessive walking. He reported this caused blistering and erosion of the scar. Examination of the skin revealed a 7-inch linear scar on the top of the right foot, and a 1-inch linear scar on the medial aspect of the right foot. There was good turgor, and no petechiae or ecchymosis. Diagnosis: Right Foot Pain, not controlled. He was referred to podiatry for management. Although scar symptoms were reported, no objective signs of scar pain or instability were documented. A scar condition was not diagnosed.

5. Summary/Opinion The record showed the applicant was service connected by the VA for Residuals of Foot Injury at 10%. He does not have other VA ratings for the right foot. While in service, the applicant did not report scar symptoms interfering with performance, for example, interference with wearing military boots. The record did not show treatment or profiling for a scar condition. The applicant's record does not contain a formal diagnosis of a scar condition: Scars were noted in the applicant's record; however, the record did not contain objective documentation of an active scar process requiring treatment of any kind to include consultation with a dermatologist or wound specialist.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant was separated in September 2005 due to disability after a PEB found his medical condition unfitting (posttraumatic arthritis, right foot) with a disability rating of 10%. As such, he was separated with severance pay. The PDBR reviewed his condition but did not change the rating or disposition. As a result of the finality of the PDBR's decision, the scope of the current Board's review is limited to those conditions which were not considered by the PDBR and not determined by the PEB to be unfitting for continued military service. The applicant asks to include his medical condition of unstable deep tissue scars as an unfitting and ratable condition. The medical reviewer

noted that while in military service, the applicant did not report scar symptoms interfering with performance. The record also did not show treatment or profiling for a scar condition. The Board further reviewed and agreed with the medical reviewer’s finding that the applicant’s record does not contain a formal diagnosis of a scar condition. Scars were noted in the applicant’s record; however, the record did not contain objective documentation of an active scar process requiring treatment of any kind. Therefore, the Board found insufficient evidence to support granting him the requested relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20220005453 on 25 April 2023.

[REDACTED]

[REDACTED]

---

[REDACTED]

[REDACTED]

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system (DES) and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 (Discharge Review Board (DRB) Procedures and Standards) and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an Military Occupational Specialty (MOS) Medical Retention Board (MMRB); and/or they are command-referred for a fitness-for-duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and Physical Evaluation Board (PEB). The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise their ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability either are separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of their office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

2. Army Regulation 635-40 establishes the Army Disability Evaluation System and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

a. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Soldiers who sustain or aggravate physically unfitting disabilities must meet the following line-of-duty criteria to be eligible to receive retirement and severance pay benefits:

(1) The disability must have been incurred or aggravated while the Soldier was entitled to basic pay or as the proximate cause of performing active duty or inactive duty training.

(2) The disability must not have resulted from the Soldier's intentional misconduct or willful neglect and must not have been incurred during a period of unauthorized absence.

c. The percentage assigned to a medical defect or condition is the disability rating. A rating is not assigned until the PEB determines the Soldier is physically unfit for duty. Ratings are assigned from the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). The fact that a Soldier has a condition listed in the VASRD does not equate to a finding of physical unfitness. An unfitting, or ratable condition, is one which renders the Soldier unable to perform the duties of their office, grade, rank, or rating in such a way as to reasonably fulfill the purpose of their employment on active duty. There is no legal requirement in arriving at the rated degree of incapacity to rate a physical condition which is not in itself considered disqualifying for military service when a Soldier is found unfit because of another condition that is disqualifying. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

3. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10, U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

4. Department of Defense Instruction (DODI) 6040.44 (Physical Disability Board of Review (PDBR)) designates the Secretary of the Air Force as the lead agent for the establishment, operation, and management of the PDBR for the DOD.

a. The PDBR reassesses the accuracy and fairness of the combined disability ratings assigned former service members who were separated, with a combined disability rating of 20 percent or less during the period beginning on 11 September 2001 and ending on 31 December 2009, due to unfitness for continued military service, resulting from a physical disability.

b. The PDBR may, at the request of an eligible member, review conditions identified but not determined to be unfitting by the PEB of the Military Department concerned.

c. As a result of a request for PDBR review, the covered individual may not seek relief from the Board for Correction of Military Records operated by the Secretary of the Military Department concerned.

5. Title 10, U.S. Code, section 1556 requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//