

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 November 2024

DOCKET NUMBER: AR20240002833

APPLICANT REQUESTS: reconsideration of her prior requests for amendment of her DA Form 199 (Physical Evaluation Board (PEB) Proceedings) to include the conditions of hypothyroidism, Graves' disease, and bilateral knee pain as ratable, unfitting conditions, thereby increasing her physical disability retirement rating

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

- DD Form 149 (Application for Correction of Military Record)
- Standard Form 513 (Consultation Sheet), 12/16 June 1998
- Standard Form 600 (Chronological Record of Medical Care), 17/18 June 1998
- Standard Form 600, 25/26 June 1998
- Standard Form 600, 29 June/1 July 1998
- Standard Form 600, 7 August 1998
- Standard Form 600, 8 October 1998
- Standard Form 600, 15 October 1998
- DA Form 3349 (Physical Profile), 5 May 1999
- Standard Form 600, 30 July 1999
- Standard Form 600, 13 August 1999
- Patient Lab Inquiry, 22 December 2000
- Standard Form 600, 10 April 2001
- Standard Form 513, 19 April 2001
- Standard Form 600, 19 April 2001
- Patient Lab Inquiry, 19 April 2001
- Standard Form 600, 8 May 2001
- Standard Form 600, 14 June 2001
- Standard Form 600, 18 June 2001
- Standard Form 600, 4 September 2001
- Otolaryngology Service Doctor's letter, 31 October 2001
- Standard Form 600, 31 October 2001
- Patient Lab Inquiry, 10 January 2002
- DD Form 689 (Individual Sick Slip), 14 January 2002
- Standard Form 600, 15 January 2002
- DD Form 689, 29 January 2002

- DA Form 5008 (Telephone Consultation), 15 March 2002
- Standard Form 600, 20 March 2002
- DA Form 3349, 30 May 2002
- Standard Form 600, date illegible
- Standard Form 600, 24 September 2004

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous considerations of the applicant's cases by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20150016628 on 30 March 2017, and in Docket Number AR20230002412 on 3 October 2023.

2. The applicant states:

a. Her medical retirement awarded by the PEB should have included the rated conditions of hypothyroidism, Graves' disease, and bilateral knee pain in addition to her existing rating for schizophrenia, paranoia. The previous Board or review team concentrated more on these conditions lacking evidence they were combat-related instead of the fact that they were aggravated in the line of duty, causing her inability to perform her duties. She is seeking to have the Board determine these conditions were incurred in the line of duty and rated as such, even if there is no evidence of combat injury.

b. These conditions were diagnosed during and aggravated by her active duty military service and resulted in her continuous Army hospital emergency care, Army medical team care, physical therapy, prescription medications, and radioactive ablations which remained non-responsive and unstable prior to the initiation of her medical retirement. She requests these conditions be added to or annotated along with her previous medical retirement rating of schizophrenia, paranoia.

c. The ABCMR annotated in her 2023 case, "At the time of her medical evaluation board for schizophrenia, the applicant was not permanently profiled for the condition of hypothyroidism or Graves' disease as it was being adequately treated with oral thyroid hormone replacement and did not come within the medical retention standards in Chapter 3 of Army Regulation 40-501 (Standards of Medical Fitness). The Board annotated documentation addressing the applicant's knee condition was not discovered in the supporting documentation or the EMR [electronic medical record]."

d. She has provided evidence of blood lab information that described the applicant's thyroid thyroid-stimulating hormone (TSH) frequently well above and below normal limits, which showed continuous thyroid dysfunction. Her hypothyroidism remained uncontrollable with medications. She has also provided evidence that her bilateral knee

pain was awarded a permanent physical profile rating of 2 (P2) during her active duty service.

e. At the time of her Medical Evaluation Board (MEB), she had no functional thyroid and a physician annotation shows this condition was just as severe and permanent as the condition of schizophrenia, paranoia. She must take a prescribed medication Levothyroxine every day for life to treat her hypothyroidism, as determined by Army, VA, and civilian physicians who treated her for this condition. Her medications have been continuously adjusted since the beginning of her diagnosis and she has had adverse reactions based on the frequent increase or decrease in dosage whenever her thyroid levels are inconsistent. It should have been the cause for her referral to the Disability Evaluation System (DES) per Army Regulation 40-501.

f. The applicant received multiple temporary profile limitations for Graves' disease and hypothyroidism beginning December 2000 to 2002 based on inability to respond to thyroid hormone replacement Levothyroxine, radioactive iodine ablation and thyroid scan. The applicant met requirements for temporary profiles for the conditions frequently within 90 days to address medical limitations. The applicant's thyroid gland was completely dysfunctional and became medically unfit for military assignments. Medications did not suppress the conditions. There was continuous lab testing for TSH, T4 and T3 levels to include continuous physician monitoring, quarters and emergency room observations. Conditions were not stable to efficiently perform duties. Refer to lab annotations and physician notations. Graves' disease and hypothyroidism are chronic endocrine conditions that affected the applicant's health as defined by the attending physicians on duty and could have been considered a rating within the medical retirement.

g. She also believes her bilateral knee pain warranted referral to the DES under the provisions of Army Regulation 40-501, chapter 3, based on range of motion that does not equal or exceed flexion to 90 degrees or extension to 15 degrees and a severe manifestation of chondromalacia, manifested by frequent joint effusion. She received a P2 permanent profile for this condition on 5 May 1999, and was given continuous physical therapy and physician's care during her active duty service. Her permanent profile limitation 2, annotated as psychotic disorder and bilateral knee pain, dated 30 May 2002, is attached as evidence there was an additional discovery of a permanent physical profile for bilateral knee pain. According to Dr. G\_\_\_\_, "The profile, dated 30 May 2002, incorporated restrictions imposed on the P2 profile dates 5 May 1999."

h. The applicant met retention standards upon initial permanent profile for bilateral knee pain; physical therapy and injections were obtained to assist in stability of the bilateral knee conditions; however, that retention standard depleted whenever the endocrine conditions of Graves' disease and hypothyroidism progressed with muscle weakness, fatigability, chronic joint aches, etc. As annotated previously, the physician

initiating the MEB did state bilateral knee pain as a P2 profile along with the psychotic disorder later diagnosed as schizophrenia, paranoia. The PEB could have considered a rating for bilateral knee pain within the medical retirement. range of motion exceeded 90 degrees and measured as much as 135 degrees. The P2 profile for bilateral knee pain derived by conditions associated with chondromalacia, tendinitis, inner knee pain and inflammation. The medical doctor annotated chondromalacia and tendonitis as consistent. The medical doctor additionally annotated a discovery of shoulder height inequality with rotational deformity of knees and defined the condition as leg length discrepancy, e.g., one leg longer and one leg shorter in length. The applicant has a noticeable limp in walk.

3. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant initially enlisted in the Regular Army on 26 April 1988, and was awarded the Military Occupational Specialty (MOS) 94B (Food Service Specialist).

4. A DA Form 2-1 (Personnel Qualification Record – Part II) shows the applicant deployed to Saudi Arabia from 24 September 1990 through 12 April 1991.

5. The applicant's DD Form 214 shows she was honorably released from active duty on 10 December 1992, due to expiration term of service (ETS) – Holiday Early Transition Program and transferred to a unit the Army National Guard (ARNG). She was credited with 4 years, 7 months, and 15 days of net active service this period.

6. A physical profile is used to classify a Soldier's physical disabilities. PULHES is the acronym used in the Military Physical Profile Serial System to classify a Soldier's physical abilities in terms of six factors, 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).

7. A Standard Form 88 (Report of Medical Examination) shows the applicant underwent medical examination on 5 November 1997, for the purpose of Regular Army enlistment and was found qualified for enlistment with a PULHES of 111111.

8. A DD Form 4 (Enlistment/Reenlistment Document) shows the applicant again enlisted in the Regular Army on 28 January 1998.

9. The applicant provided numerous medical documents pertaining to her bilateral knee pain, dated between June 1998 and August 1999, all of which have been provided in full to the Board for review and in pertinent part show:

a. A Standard Form 513, 12/16 June 1998, and numerous Standard Forms 600, 17/18 June 1998, 25/26 June 1998, 29 June/1 July 1998, 7 August 1998, 8 October 1998, 15 October 1998, reflect the applicant's treatment for persistent bilateral knee pain, patellar tendonitis, rehabilitation, and physical therapy for that condition. A diagnosis of chondromalacia bilateral knees was made on 7 August 1998.

b. A DA Form 3349 shows on 5 May 1999, the applicant was given a permanent physical profile rating of 2 in factor L for bilateral knee pain. She did not have any assignment limitations, was not limited in any functional activities, but was limited to not participating in the run event of the Army Physical Fitness Test (APFT) and could run at her own pace and distance.

c. Two additional Standard Forms 600, 30 July 1999 and 13 August 1999, reflect continued treatment for her bilateral knee pain, where her shoulder height inequality and some rotation deformity are noted. She received inserts for her shoes/boots.

10. A Patient Lab Inquiry, 22 December 2000, reflects the applicant's lab work completed on 22 November 2000, and has been provided in full to the Board for review.

11. A DA Form 3340-R (Request for Reenlistment or Extension in the Regular Army) shows on 26 January 2001, the applicant requested to reenlist in the Regular Army, her immediate commander indicated the applicant was fully qualified for reenlistment, and approved the request.

12. A DD Form 4 shows the applicant reenlisted in the Regular Army on 26 January 2001.

13. The applicant provided numerous medical documents pertaining to her hypothyroidism and Graves' disease, dated between April 2001 and May 2001, all of which have been provided in full to the Board for review and in pertinent part show:

a. A Standard Form 600, shows she was seen on 10 April 2001, for complaints of hypothyroidism for 6 months, with painful joints, swollen hands and feet, headaches, and dizziness. Additional comments show likely Graves' disease.

b. Standard Form 513 shows a consult request was made for referral to the Otolaryngology clinic after the applicant was recently diagnosed with hyperthyroidism and should be evaluated for I-131 ablation [radioiodine ablation or radiation therapy in which radioactive iodine is administered to destroy or ablate residual thyroid tissue]. She was given a provision diagnosis of Graves' disease. On 19 April 2001, the Otolaryngology Clinic consultation shows an assessment of Graves' disease and the plan for I-131 ablation.

c. A Standard Form 600 shows she was again seen on 19 April 2001, with complaints of sharp needle pain in hands and wrists radiating to her elbows, swelling in feet and hands, numbness, and fatigue. The assessment shows a diagnosis of Graves' disease and the plan should I-131 ablation with continuation on medication until ablation.

d. A Patient Lab Inquiry, provides the applicant's lab results as of 19 April 2001.

e. A Standard Form 600 shows she was seen on 8 May 2001, for mild facial swelling. Her medication was refilled and she was to follow up with Endocrinology and continue her previous profile.

14. The applicant's records contain a DA Form 3349 which shows:

a. On 18 May 2001, she was given a temporary physical profile with a PULHES of 322111, due to the condition of Graves' disease/thyrotoxicosis, with a temporary expiration date of 18 November 2001. The T3 rating is in factor P, and two T2 ratings in factors U and L.

b. Her assignment limitations are listed as no assignment requiring exposure to high environmental temperatures for 6 months. No assignment to isolated areas when definitive medical care (U.S. Armed Forces hospital) is not available for 6 months. No mandatory strenuous physical activity for 3 months.

15. The applicant provided multiple additional Standard Forms 600, dated between June 2001 and September 2001, pertaining to her hypothyroidism and Graves' disease, which show:

a. She was seen on 14 and 18 June 2001 for her Graves' disease and complaints of pain to multiple joints, dizziness, and a worsening of her symptoms to include right side of her body numbness

b. On 4 September 2001, she was seen for a follow-up after being diagnosed with hyperthyroidism and was given quarters for 24 hours with limitations to no prolonged standing in formation longer than 15 minutes and no working beyond 2 hours without a 15 minute break.

16. The applicant's records contain a DA Form 3349 which shows on 7 September 2001, her previous profile for hypothyroidism, status post I-131 ablation was amended to add to the previous recommendations that she must have one consistent shift at work; no swing shift. She should do physical training on her own for 30 days until Synthroid begins to take effect. The temporary profile was to expire 9 November 2001. Her PULHES is not listed.

17. The applicant provided two additional medical documents pertaining to her hypothyroidism and Graves' disease, dated 31 October 2001, which show:

a. An Otolaryngology Service Doctor's letter, 31 October 2001, shows the applicant was under her care for hypothyroidism. She is floridly hypothyroid – basically she has no functional thyroid gland. They were working on treating her medically, but it would take some time to get her thyroid hormone levels replaced to normal level. Symptoms of hypothyroidism include fatigue, mental confusion, inability to organize tasks/thought, sleeping during the day, weight gain. The applicant may manifest the above symptoms and her duties should be modified to be within her abilities until her TSH level is under 6; it is currently 103.

b. A Standard Form 600 shows the applicant was seen on 31 October 2001, status post I 131 ablation for Graves' disease and is now hypothyroid. Placed on Synthroid. Her TSH is 103.35.

18. The applicant's records contain DA Form 3349 which shows:

a. On 19 November 2001, she was given another temporary physical profile for I-131 induced hypothyroidism, with a PULHES of 322111 and a temporary profile expiration date was 19 February 2002.

b. Her limitations included no strenuous activity; no swing shifts; no assignments where medical care is not available. She was limited in some functional activities and could not participate in the two mile run event of the APFT.

c. Section 9 (Other) shows this profile is temporary and should be amended when the applicant is fully treated with medication.

19. The applicant provided the following additional medical documentation dated between January and March 2002, which has been provided in full to the Board for review, and in pertinent part shows:

a. A Patient Lab Inquiry reflects the applicant's lab work 1 December 2001 – 10 January 2002.

b. Two DD Forms 689 and a Standard Form 600, dated 14, 15, and 29 January 2002, show the applicant was treated for Graves' Disease with complaints of fatigue, received IV fluids, and was to continue Synthroid as prescribed and follow up.

c. A DA Form 5008 shows the applicant attempted to see a provider on 15 March 2002, and a telephone consultation was attempted, with the provider leaving her

messages. The applicant's TSH was elevated at 9.82 and she wasted an adjustment of the Synthroid.

d. A Standard Form 600 shows the applicant was seen for follow up for her hypothyroidism on 20 March 2002. Labs show her THS was 9.92 on 14 March 2002 and 10.99 on 27 December 2001. Her T4 was 1.26 on 14 March 2002 and .87 on 27 December 2001. The assessment shows the applicant was still hypothyroid and her Synthroid dose would be increased with lab work to be redone in 3-4 weeks.

20. A final DA Form 3349 shows:

a. On 30 May 2002, the applicant was given a permanent physical profile rating with a PULHES of 112114. The P2 rating is in factor L for bilateral knee pain and the P4 rating is in factor S for psychotic disorder not otherwise specified.

b. This physical profile incorporated the prior restrictions imposed on the P2 profile dated 5 May 1999, for her bilateral knee pain.

c. New limitations related to her P4 rating for psychotic disorder not otherwise specified include no access to weapons and that she must remain within a 50 mile radius of a medical facility.

21. A partial MEB Narrative Summary (NARSUM) (only pages 5 and 6 available for review), 27 June 2002, shows:

a. The applicant had a history of Graves' disease, with subsequent iatrogenic hypothyroidism status post radioactive iodine treatment for the same. She is also status post laparoscopic surgery in 1993. Her current medications were Synthroid and Haldol.

b. Her laboratory and x-ray data shows complete blood count, chemistry panel, liver function tests, urine drug screen, and urinalysis were done on 31 January 2002 and were all within normal limits. Free T4 done on 17 December 2001 was 0.87 (within normal limits) and TSH done on 17 December 2001 was 10.99 (elevated).

c. Her listed diagnosis is schizophrenia, paranoid type, manifested by paranoid delusions, hallucination, disorganized speech and social and occupational functioning. Stress: Moderate, health concerns and occupational stressors. Predisposition: mild. Impairment for military duty: marked. Impairment for social and industrial adaptability: severe. Line of duty: yes. Her PULHES is 112114.

d. Duty restrictions shows the applicant was on convalescent leave awaiting the processing of her MEB and was restricted from use of or access to a weapon.



e. The recommendations shows the applicant was medically unacceptable in accordance with Army Regulation 40-501, chapter 3. She was therefore referred to the PEB for final disposition determination.

22. A DA Form 3947 (MEB Proceedings) shows:

a. An MEB convened on 28 June 2002, where the applicant's schizophrenia, paranoid type was considered based on manifested paranoid delusions, hallucination, disorganized speech and social and occupation functioning with marked impairment for military duty.

b. The findings and recommendation of the MEB were approved on 3 July 2002, and her referral to the PEB for this condition for this condition.

c. The applicant signed the form on 13 July 2002, indicating she did not agree with the Board's findings and recommendations and submitted an appeal.

23. The applicant submitted a statement to the MEB, appealing the findings and recommendation.

a. She indicate she has suffered a major emotional trauma for the past year and suffered an emotional breakdown mainly because the Army failed to protect her. She had been diagnosed with a thyroid disorder, which is serious enough to have caused her Graves' disease. She was treated with radioactive iodine which completely burned out her thyroid gland and she now has no functional thyroid.

b. Her thyroid disorder caused her to suffer with sever fatigue, painful joint swelling, and even loss of the use of her hands at times. Her previous hyperthyroidism and current hypothyroidism disorder are still problems. At times, her body feels like its going to collapse.

c. There is also a permanent profile in her medical records explaining her bilateral knee pain/condition. She had been treated at the Orthopedics Clinic at Fort Polk, LA and she regularly had swelling in her knees, resulting in constant physical therapy treatments. She is asking for a medical retirement.

24. The applicant's DA Form 3947 shows on 15 July 2002, the approving authority considered the applicant's appeal and confirmed the original findings and recommendation.

25. A DA Form 199 (PEB Proceedings) shows

a. A PEB convened on 18 July 2002, where the applicant was found physically unfit with a recommended rating of 50 percent and that her disposition be placement on the Temporary Disability Retired List (TDRL) with reexamination during February 2004.

b. Her unfitting condition is schizophrenia, paranoid type, manifested by paranoid delusions, hallucinations, and disorganized thinking, all having significant impact on social and industrial adaptability. Rated 50 percent.

26. Headquarters, 101st Airborne Division (Air Assault), Fort Campbell Orders Number 224-0021, 12 August 2002, released the applicant from assignment and duty because of physical disability incurred while entitled to basic pay and under conditions that permit her placement on the TDRL, with placement on the TDRL effective 30 September 2002 and a disability rating of 50 percent.

27. A DD Form 214 shows the applicant was retired under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) on 29 September 2002, due to temporary disability with corresponding separation code SFK. She was credited with 4 years, 8 months, and 2 days of net active service this period, with 4 years, 7 months, and 15 days of net prior active service and 3 years, 1 months, and 8 days of total prior inactive service.

28. A Standard Form 600 shows the applicant was seen on 24 September 2004, for follow-up for her thyroid disorder. The assessment/plan shows she was diagnosed with hypothyroidism with elevated TSH and the dosage of her medication was increased to 0.25 milligrams daily, with follow-up in 2 months.

29. A TDRL DA Form 199 shows:

a. A TDRL PEB convened on 5 July 2006, where the applicant was found physically unfit with a recommended combined rating of 50 percent and that her disposition be permanent disability retirement.

b. Her unfitting condition is schizophrenia, paranoid type. She continued experience prominent paranoia, thought processes linear to tangential, occasionally illogical, minimal to no social interactions outside her family. She is unemployed due to paranoid symptoms. Rated as considerable social/occupational impairment. Rated 50 percent.

c. Based on review of the TDRL examination, the PEB found the applicant remained unfit to reasonably perform the duties required by her grade and MOS. Her current condition is considered stable for final adjudication.

d. On 17 July 2006, the applicant signed the form indicating she concurred with the findings and recommendations and waived a formal hearing of her case. She also had wrote, "Please review TDRL diagnosis attached." An attached TDRL diagnosis is not in her available records for review.

30. U.S. Army Physical Disability Agency (USAPDA) Orders D214-5, 1 August 2006, removed the applicant from the TDRL effective 1 August 2006, because of permanent physical disability and permanently retired her with a disability rating of 50 percent.

31. A partial VA rating decision, 23 September 2013, shows the applicant was granted the following VA service-connected disability ratings:

- hypothyroidism, currently 30 percent disability is increased to 100 percent effective 12 October 2011
- schizophrenia, paranoid type, is continued at 100 percent
- entitlement to special monthly compensation based on housebound criteria being met was granted effective 12 October 2011

32. A partial VA Rating Decision, 2 October 2015, shows the applicant was granted a combined evaluation of 100 percent effective 30 September 2002 for the following service-connected conditions:

- schizophrenia, paranoid type, 100 percent
- hypothyroidism, 100 percent from 12 October 2011
- retropatellar pain syndrome of the left knee, 10 percent
- retropatellar pain syndrome of the right knee, 10 percent

33. The applicant previously applied to the ABCMR in 2015, requesting the addition of hypothyroidism and bilateral knee pain as unfitting ratable conditions to her PEB proceedings entitlement to Combat Related Special Compensation (CRSC) for her paranoid schizophrenia and bilateral knee pain. On 30 March 2017, as evidenced in the ABCMR Record of Proceedings for Docket Number AR20150016628, the Board denied her application, determining the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of her case are insufficient as a basis for correction of her records.

34. The applicant again applied to the ABCMR in 2023, requesting reconsideration of her prior request for the addition of hypothyroidism and bilateral knee pain as unfitting ratable conditions to her PEB proceedings entitlement to CRSC. On 3 October 2023, as evidenced in the ABCMR Record of Proceedings for Docket Number AR20230002412, the Board denied her application, determining the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of her case are insufficient as a basis for correction of her records.

35. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

36. Title 38, USC, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

#### MEDICAL REVIEW:

The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records.

Referral for further DES processing is not warranted for the Hypothyroidism/Graves' Disease or Retropatellar Pain Syndrome conditions. The conditions were reviewed and a permanent P3 was not found for either, nor was one warranted based on records available for review.

#### 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.

a. The evidence shows a PEB convened on 18 July 2002 and found the applicant physically unfit with a recommended rating of 50% and that her disposition be placement on the TDRL with reexamination during February 2004. Her unfitting condition is schizophrenia, paranoid type, manifested by paranoid delusions, hallucinations, and disorganized thinking, rated at 50%. A TDRL PEB later convened on 5 July 2006 and found the applicant remained unfit and recommended combined rating of 50% and that her disposition be permanent disability retirement. Her unfitting condition is schizophrenia, paranoid type.

b. The applicant previously applied to this Board in 2015, requesting the addition of hypothyroidism and bilateral knee pain as unfitting ratable conditions to her PEB proceedings entitlement to CRSC for her paranoid schizophrenia and bilateral knee pain. The Board denied her application, determining the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of her case are insufficient as a basis for correction of her records. She again applied to the

Board in 2023, requesting reconsideration of her prior request for the addition of hypothyroidism and bilateral knee pain as unfitting ratable conditions to her PEB proceedings entitlement to CRSC. The Board denied her application, determining the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of her case are insufficient as a basis for correction of her records.

c. The Board reviewed the current application and agreed with the medical reviewer's determination that referral for further disability evaluation system processing is not warranted for the Hypothyroidism/Graves' Disease or Retropatellar Pain Syndrome conditions. The conditions were reviewed and a permanent P3 was not found for either, nor was one warranted based on records available for review. Therefore, the Board determined relief is not warranted.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	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 AR20150016628 on 30 March 2017, and in Docket Number AR20230002412 on 3 October 2023.

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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 his/her 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 his or her 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. Title 38, U.S. Code, section 1110 (General – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

5. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

6. 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//