



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

[REDACTED]  
Docket No. 6018-24  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED],  
USN, [REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) Official Military Personnel File

Encl: (1) DD Form 149 w/attachments  
(2) Commander, Navy Personnel Command (PERS 95) ltr 5400 Ser 95/1121 of  
20 December 2024  
(3) [REDACTED], ltr of 10 February 2025  
(4) [REDACTED], ltr 1070 of 16 January 2025  
(5) Physician Advisor, Board for Correction of Naval Records ltr NR20220007615 of 19  
December 2023

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that he be placed on the permanent disability retired list (PDRL) effective 2 June 2022.

2. The Board, consisting of [REDACTED], [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 13 February 2025 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of naval records, and applicable statutes, regulations and policies. The Board also considered enclosure (2), an advisory opinion (AO) from Commander, Navy Personnel Command (PERS 95), as well as Petitioner's enclosures (3) and (4), which are letters and their enclosures, provided in response to the AO and included a letter from his former unit Officer in Charge and the commanding officer of his former Navy Operational Support Center (NOSC). The Board also considered enclosure (5), an AO from his prior petition to this Board, as it had a thorough listing of Petitioner's medical history while he was in service.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

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b. A review of Petitioner's reference (b) reveals that he was commissioned in the Navy Reserve as a member of the Medical Service Corps on 27 September 1962. According to the enclosure (5), which was prepared for Petitioner's prior petition with this Board but contains a concise statement of Petitioner's medical background, on 12 August 2016, Petitioner was issued an approved Line of Duty Healthcare Benefits (LODB) letter for Right Leg Deep Venous Thrombosis (DVT); effective 30 April 2016 to 10 February 2017. The LODB also directed that a Medical Evaluation Board (MEB) must be initiated, not later than 10 November 2016, unless a military physician found him to be fit for duty with no further follow-up care required prior to that date.

c. In preparation for an upcoming deployment, on 3 October 2017, Petitioner underwent a Deployment Screening Examination at [REDACTED] Air Force Base. The Deployment Screening Examination noted that he had a past medical history that included blood clots and it listed the medication that he was taking as "OTC [Over-The-Counter] Benadryl." Thereafter, he was returned to duty without limitations after receiving vaccinations for your deployment. On 10 October 2017, he prepared a Pre-Deployment Health Assessment in preparation for a deployment to [REDACTED] and [REDACTED] in December 2017. In his Pre-Deployment Health Assessment, he reported his health as "Very Good" and he denied any questions or concerns relating to his medical, dental, or mental health conditions. The medical professional noted that "There is no evidence of deployment limiting conditions or medications (was only taking Claritin for seasonal allergies)." He was released without limitations to proceed with deployment. On 24 October 2017, he underwent a Pre-Deployment Military Physical Examination, which revealed that he was "feeling fine," had no medical complaints, that he was taking Claritin for allergies, and that he was taking no other medications. He was released without limitations and cleared for his deployment to Iraq.

d. Petitioner commenced a period of active duty on 20 October 2017, which included his deployment to [REDACTED] from 28 December 2017 to 17 June 2018. Toward the end of this active duty period, and in preparation for his release from active duty, he underwent a Separation Physical Examination. As set forth in the enclosure (5), during that examination, among other things, he reports a history of "Deep Venous Thrombosis in left lower leg. Line of Duty resolved with no [illegible], take Xeralta [to prevent blood clots] for long flights. [Illegible] -2010 [?] Resolved with no [illegible]. Cleared by Cardiologist x3 in record." The examining physician noted Petitioner's history of "DVT" and directed that he follow-up with his primary care manager.

e. Although Petitioner's record does not appear to contain the entirety of the documentation, in approximately 2020 Petitioner's reserve command placed him into medical readiness review (MRR). In connection therewith, on 8 July 2020, his commanding officer prepared a non-medical assessment (NMA); which stated his opinion that he was an asset and should be retained in the Navy Reserve. The Department of the Navy Bureau of Medicine and Surgery (BUMED) reviewed Petitioner's MRR package and, on 26 October 2020, found that he did not meet established physical standards due to "recurrent deep venous thrombosis with factor V Leiden mutation" and that he was not recommended for retention in the Naval Reserve.

f. There is no indication in Petitioner's record, or in the materials that he provided, that he appealed the finding of BUMED to the PEB or that he diligently sought another LODB. On

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26 May 2022, Navy Personnel Command transmitted a message to his reserve command stating that he was found to be not physically qualified (NPQ) to remain in the Navy Reserve. Thereafter, on 2 June 2022, he was separated from the Navy Reserve. Petitioner provided information demonstrating that, on 29 September 2022, the Department of Veterans' Affairs (VA) awarded him a 70% service connected disability for blood clots.

g. In 2022, Petitioner filed his initial petition with this Board. Among other arguments, he asserted that the LOD for Disability Evaluation System (LOD for DES) program and procedures were not available at the time of his reserve service. This Board informed Petitioner by letter dated 31 January 2024 that it denied his petition. In its letter, this Board explained that it had substantially concurred with enclosure (5); which was considered unfavorable to his request. The Board also explained that it found it significant that Petitioner never sought to obtain a reissued LODB.

h. In his current petition, in which he seeks reconsideration of his denied petition and again requests to be placed on the PDRL; effective 2 June 2022 or as soon as applicable. In support of his request, he contends that he provided additional documentation addressing the Board's prior decision including his PEB package from NOSC Cincinnati Medical Department. He also asserts that, contrary to the Board's decision, he did appeal the PEB decision in his case. He also reiterated arguments that he made in his prior petition. Notably, he provided information from his former officer in charge and the former commanding officer of his NOSC, explaining the efforts that they made to obtain an LODB for Petitioner. In particular, in the enclosure (3) letter from his former officer in charge, she explained:

It is my recommendation as [Petitioner's] former OIC that the BCNR find the delay in submission of his appeal be found to not be [Petitioner's] culpability. During the time of his PEB we were in the midst of the Corona Virus 19 pandemic. Drill periods were newly virtual, and the Navy Operational Support Center (NOSC) was keeping staff to minimize chances of staff contracting the virus reducing the ability for [Petitioner] to interact with NOSC staff including medical. Also, there was no face to face with our unit's leadership or its medical staff. I do recall [Petitioner] discussing the issues pertaining to the PEB during my tenure as OIC. Although I cannot account for the totality of the 325-day delay, I can attest to [Petitioner's] active involvement with myself and the NOSC medical department and to him being a Naval Officer of the highest caliber. It was a great loss to our detachment when he was no longer an active member of the triad/leadership team.

i. The enclosure (4) letter from the commanding officer of Petitioner's NOSC while Petitioner was going through the MRR process made the same recommendation at Petitioner's former officer in charge; recommending that this Board find that the delay in submission of his appeal was not Petitioner's fault, as he was actively engaged and trying to work with the staff that at the NOSC. The former NOSC commanding officer cited personnel gaps and communications challenges as a result of the pandemic, and that he states he can "assure the BCNR that [Petitioner] put forth a good faith effort every step of the way, and he reached out to directly to me when my team failed to respond."

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j. In order to assist it in reviewing Petitioner current request for reconsideration of his petition, the Board obtained an AO from PERS 95; which is the organization with Navy Personnel Command that is responsible for Line of Duty medical matters. According to enclosure (2), PERS 95 recommended that this Board determine whether Petitioner's delay in acting on his PEB appeal package is relevant to the question of whether he should receive LOD benefits. According to PERS 95, the decision can be addressed as follows (with change in formatting and numbering added):

- (1) If the Board determines that delayed actions do not make him eligible for LOD-B for DES simply because he delayed acting on his case until the program was put into effect, then [Petitioner's] separation status should not change.

-or-

- (2) If the Board determines that Petitioner's timeline merits a potential LOD-B for DES benefit regardless of his delays, PERS-95 judges that an injustice was done due to the separation message of 26 May 2022 not including the option to submit for LOD-B for DES benefits. In this scenario, PERS-95 would further recommend that the formality of an LOD-B for DES determination and letter be dispensed with, since [Petitioner] does not have a military chain of command to process the letter through to BUMED, or access to BUMED resources as a non-retiree, or access to military facilities as a non-retiree, nor does his personnel profile exist in any active DON personnel or medical management systems. PERS-95 would recommend in this scenario that his full medical record relevant to DVT as of May 2022 be submitted to PEB as an assumed approved LOD and BUMED package, for the PEB to determine the fitness or unfitness of [Petitioner's] continued service and whether there is a disability percentage available.

k. The Board thus considered the foregoing questions during its deliberations. The Board observed the continued validity of the enclosure (5) but noted that, at the time it was written, it did not have the entirety of the applicable information.

## CONCLUSION

In its review of the entirety of Petitioner's materials as described above, and in particular its review of the enclosure (2) AO, the Board concluded that the Petitioner is entitled to relief in the form of approving him LOD-B for DES status. In reaching its decision, the Board determined that Petitioner provided sufficient evidentiary support; namely, the letters from his prior officer in charge and commanding officer of his NOSC. These letters support the finding that, in the words of the enclosure (2) PERS 95 AO, "Petitioner's timeline merits a potential LOD-B for DES benefit regardless of his delays." Thus, as set forth in the enclosure (2), the Board concludes a reasonable course of action is that Petitioner's full medical record relating to his Deep Vein Thrombosis as of May 2022 be submitted to the PEB as an assumed approved LOD for DES and that the PEB determine Petitioner's fitness for continued service and whether there is a disability percentage available.

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## RECOMMENDATION

In view of the above, the Board directs the following corrective action.

That Petitioner's naval record be considered to have an assumed Line of Duty Benefits for Disability Evaluation System and that his full medical record relating to his Deep Vein Thrombosis as of May 2022, along with any other medical records deemed necessary for a complete review, be transmitted to the PEB. The PEB shall make a determination as to Petitioner's fitness continued service and whether there is a disability percentage available.

Petitioner shall be afforded all due process required under applicable Disability Evaluation System regulations.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

3/7/2025

