RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXX CASE: PD-2023-00071
BRANCH OF SERVICE: AIR FORCE SEPARATION DATE: 20050712

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was a Reserve O4, Family Physician Officer, medically separated for "Major Depressive Disorder [MDD]" with a disability rating of 10%.

CI CONTENTION: Given a higher rating by the VA for the MDD. The complete submission is at Exhibit A.

SCOPE OF REVIEW: The panel's scope of review is defined in DoDI 6040.44. It is limited to review of disability ratings assigned to those conditions determined by the Physical Evaluation Board (PEB) to be unfitting for continued military service, and when specifically requested by the CI, those conditions identified by the Medical Evaluation Board (MEB), but determined by the PEB to be not unfitting or non-compensable. Any conditions outside the panel's defined scope of review, and any contention not requested in this application, may remain eligible for future consideration by the Board for Correction of Military Records. The panel's authority is limited to assessing the fairness and accuracy of PEB rating determinations and recommending corrections when appropriate. The panel gives consideration to VA evidence, particularly within 12 months of separation, but only to the extent that it reasonably reflects the severity of disability at the time of separation.

RATING COMPARISON:

SERVICE PEB – 20050525			VARD – 20060124			
Condition	Code	Rating	Condition	Code	Rating	Exam
MDD	9434	10%	MDD with Anxiety Features	9435	30%	20050803
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 60%			

ANALYSIS SUMMARY:

MDD. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI had problems with depression since approximately 1997 and saw multiple therapists. She deployed to Afghanistan for 2 months in 2003 and returned home early from the tour. The CI was hospitalized in March 2005 for worsening depression and a plan to overdose on Tylenol in a suicide attempt/gesture, but there was no evidence that an actual attempt occurred.

The 6 March 2005 MEB NARSUM examination, 4 months prior to separation, took place during the CI's inpatient treatment, and noted complaints of depression, anhedonia, sleep difficulty, decreased appetite and a 10-15 pound weight loss over the previous 3 weeks. She also described other symptoms consistent with MDD. She stated that she had experienced previous depressive periods for which she could identify triggers, but she did not know what caused the current episode. The examiner (a psychiatry intern) referenced the CI's commander statement, which noted problems since she was selected as a flight commander in September 2004, one month after arriving to her base. After formal counseling for inappropriate comments in public areas, she was removed from her position in October 2004 after failing to improve and for behavior

described as disruptive to the work environment. In February 2005, the CI reported having suicidal thoughts with a plan and she was evaluated by mental health (MH). She was placed on a modified schedule, which allowed her more time to see patients. She continued to have problems with co-workers, and on 3 March 2005 reported to her chain of command that she felt overwhelmed and empty and 'just couldn't do it anymore.' She was noted to be disheveled with poor grooming and hygiene and crying profusely. The CI was placed on a profile and no longer allowed to see patients. She was referred for psychiatric evaluation, and on 6 March 2005 she was admitted for inpatient treatment. The mental status examination (MSE) at the time of hospital admission documented her appearance as disheveled, thin, and older than her stated age. There was evidence of psychomotor agitation (increased motor activity and shifting positions frequently), but she demonstrated normal speech rate, rhythm, and volume. She stated her mood was "awful" with mildly agitated/anxious affect, but normal range and stable intensity. There was no evidence of delusions or paranoia, and she denied auditory and visual hallucinations. She also denied suicidal or homicidal thoughts. The CI expressed frustration over too little time for seeing patients, and uncertainty about accomplishing her demanding job without it affecting her integrity and self-esteem. Compromising her integrity was overwhelming and resulted in "irritability and depressive symptoms with thoughts of wanting to be dead."

The examiner documented changes made to the CI's medications, which she tolerated well without side effects. During hospitalization, she was noted to have "numerous negative encounters with staff and patients." The Axis I diagnoses was dysthymic disorder and recurrent, moderate MDD, with marked impairment for military service and mild impairment for civilian, social and industrial adaptability. The examiner also noted the CI was "currently at moderate to high risk of harming herself," given her history of suicidal ideation and distant history of suicidal gesture." Hospital discharge documentation was not in evidence.

A social worker note on 12 May 2005 was the only MH treatment record in evidence after the NARSUM examination and prior to separation. The provider recorded a guarded and dysthymic affect and assessed single episode, severe MDD, without psychotic behavior.

At the 3 August 2005 VA Compensation and Pension (C&P) examination, 1 month after separation, the CI reported that her prescribed medication for depression and anxiety led to some improvement in her symptoms. She also stated that the military reported her to the National Practitioner Data Bank as an "impaired physician," and that her medical license was on hold by the state licensure board. The examiner noted that the CI "was particularly disheartened over the status of her medical licensure evidently feeling that reporting her was somewhat of an overreaction on the behalf of the Air Force. She is concerned about the payment of outstanding student loans, finding suitable work, and establishing a new life..." Although the CI reported periods of "considerable sadness and sorrow," she did not have the deep hopelessness she had in previous months. The MSE recorded the CI's appearance to be "intense, serious, and highly focused throughout," with mood "somewhat more anxious than depressed, although there were elements of the latter." There were no gross memory defects or other signs of a significant cognitive defect; no signs of a psychotic condition such as hallucinations or delusions, or inappropriate affect or loosened associations; and no suicidal or homicidal ideation. Insight was moderate and judgment intact. The CI noted difficulties while deployed with medical colleagues who objected to her working with trauma and emergency situations and expressed their disagreement with her ability to perform these duties as they were perceived to be outside of the CI's scope of practice and training. She also reportedly had "many clashes over administrative matters" at home station that led to her to believe that "deliberate efforts were being made to get her transferred out." She also felt that the lack of a personal support system or local friends led her to become "increasingly anxious and depressed." The examiner assessed MDD with anxiety features "currently in partial remission and at a mild to moderate level of severity."
The panel directed attention to its rating recommendation based on the above evidence. The formal PEB (FPEB) rated the MDD 10%, coded 9434 (MDD), citing service aggravation, mild social

and industrial adaptability impairment," and noting the condition resulted "directly from her service in a combat area while deployed to Afghanistan." The VA rated the MDD 30%, coded 9435 (mood disorder, not otherwise specified), based on the C&P examination, citing occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks.

The FPEB rating preceded the promulgation of the NDAA 2008 mandate for DoD adherence to VASRD section §4.129 (mental disorders due to traumatic stress) for an unfitting psychiatric condition. Thus, the panel first considered whether the provisions of VASRD §4.129 were applicable. The FPEB noted that "the intensity of the medical environment" while deployed, and the severity of patient's medical conditions led her to seek "combat stress care in theatre and an early curtailment of her duty." The CI's post-deployment health assessment indicated that she had either sought or intended to seek MH counseling, and listed her MH concern at that time as related to "turmoil" over her legal problems at home (no specific evidence recorded). The NARSUM examiner documented that the CI could not pinpoint a trigger for her depressive episode in March 2005 that required hospitalization, but she had been able to do so for past depressive periods. The C&P examiner noted that while the CI reported witnessing severe casualties, she did not present a "typical picture" of PTSD regarding 'reliving experiences' or other symptoms. There was no specific mention in the STR of the CI feeling traumatized or of specific traumatic stressors. However, given her work as a trauma physician in a highly stressful environment where she reported problems with co-workers and feelings of being targeted, panel members acknowledged the strong possibility of a trauma-related MH condition. The panel concluded that despite conflicting evidence that a highly stressful event led to a mental disorder during service, the provisions of VASRD§ 4.129 were applicable in this case. Therefore, a minimum 50% rating for a retroactive 6-month period on the Temporary Disability Retired List (TDRL) is recommended.

The panel turned to its rating recommendation at the time of TDRL placement, and agreed the §4.130 criteria for a rating higher than 50% at the time of TDRL placement were not met; therefore, the minimum 50% TDRL rating prescribed by §4.129 is applicable. The panel then turned to its permanent rating recommendation at TDRL removal. The C&P examination was the sole source for consideration during the constructive TDRL period, and the assessment documented that the CI's MDD with anxiety features was in partial remission with a severity level of mild to moderate. It was noted that her medication led to improvement, and there no reports of panic attacks, chronic insomnia, cognitive impairment, or evidence of impaired judgment or thinking. The CI had improved significantly, with no evidence of treatment in the emergency room or further hospitalization for suicidal gestures or attempts in the 5 months after the NARSUM. The CI had not found employment within the month after separation due to the hold on her medical license, however, the STR showed the CI was hired into a position in December 2005 (5 months after separation, and 4 months after C&P examination). There was no evidence of performance issues due to a MH condition or that the CI continued with MH treatment or psychotropic medication. The only complaint noted during the constructive TDRL period was depressed mood and anxiety. An orthopedic note, 7 months after separation, provided no evidence of occupational impairment due to MH symptoms. Panel members concluded the CI's condition was stable at the time of permanent separation, and that the disability was most reflective of a 10% rating for "occupational or social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress." After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a retroactive 6-month period of TDRL with a rating of 50% (in accordance with §4.129), and a permanent rating of 10% for the MDD.

BOARD FINDINGS: In the matter of the MDD, the panel recommends an initial TDRL rating of 50%, coded 9434, in retroactive compliance with VASRD §4.129 as DoD directed; and a 10%

permanent rating at 6 months IAW VASRD §4.130. There are no other conditions within the panel's scope of review for consideration.

CONDITION	VASRD CODE	RATING	
		TDRL	PERMANENT
Major Depressive Disorder	9434	50%	10%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20230905, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans Affairs Record

SAF/MRB
3351 Celmers Lane
JBA NAF Washington, MD 20762-6435

Dear XXXXXXXXX

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2023-00071.

After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was not in accordance with the guidelines of the Veterans Affairs Schedule for Rating Disabilities. Accordingly, the Board recommended modification of your records to reflect placement on the Temporary Disability Retired List without change to your assigned disability rating and separation with severance pay, upon final disposition.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding, accept the recommendation and direct that your records be corrected as set forth in the attached copy of a Memorandum for the Chief of Staff, United States Air Force. This will not result in any change to your separation documents or the amount of severance pay you are entitled to. Disability severance pay is computed the same regardless of a rating of 0, 10 or 20 percent.

Sincerely,

Attachment:
Record of Proceedings