

PART 9 DES-RELATED SUBMISSION REQUIREMENTS

3901 General Requirements For Boards Being Referred For Disability Evaluation

a. Medical Evaluation. The report of the medical board shall make a clear statement of the member's impairment and its impact on his/her current duties. This opinion must be supported by objective medical data displaying the nature and degree of the impairment, if any. Medical board reports must include the results of a complete physical examination and comprehensively describe the physical condition of a member, the nature and extent of the physical impairments and will also include any and all SF 88 and SF 93 forms. The report must include all available information, with adequate documentation of the origin, aggravation by service, and other significant medical facts pertaining to the impairments observed including information on refusal of treatment. The report must include a NMA, see enclosure (11).

b. Explanation Of Apparent Contradictions In The Records. Apparent contradictions in the records, such as the board's disagreement with a report or consultation, should be thoroughly explained. The condition of a patient following therapy, the response thereto, the degree of severity of the disease or injury, and when appropriate, their effect on the member's functional ability must be described in detail.

c. Prohibition Of Conclusion Of Unfitness. The presence of a disease or injury does not, of itself, justify a finding of Unfit. Therefore, medical board reports shall not reflect a conclusion of unfitness or utilize the term "Unfit" because it could be confused with the definition of Unfit or Not Physically Qualified for continued naval service used within the DES.

3902 Line Of Duty/Misconduct Determinations In Injury Cases

a. JAGMAN, chapter II requires line of duty/misconduct determinations for injuries which may result in permanent disability and identifies who is responsible to order and/or conduct them. A medical board convening authority that refers a member for disability evaluation shall include a copy of the line of duty/misconduct determination with the medical board report. Officers in command of MTFs and other convening authorities of medical boards shall request cognizant commands deliver needed line of duty/misconduct determinations with endorsements within 10 days of receipt of the request. Make requests as soon as practicable and not later than the date of convening the medical board.

b. When the command to which a member was attached at the time of his or her injury is unknown, is incapable of conducting a proper investigation, or if an investigation is unduly delayed or not being conducted, the medical board convening authority shall promptly request assistance from the area coordinator, or the subordinate commander authorized to convene general courts-martial (GCM) and designated by the area coordinator for this purpose. See JAGMAN 0205. The GCM authority shall provide prompt assistance to correct deficiencies.

3903 Inactive-Duty Reservists

A medical board or other authority referring an inactive-duty reservist for evaluation shall include with the medical board report a copy of the NOE for benefits or affirmatively state that the reservist is not entitled to a NOE under reference (g).

3904 Prognosis Of Death Imminent

a. When competent medical authority determines that a service member's death is expected within 72 hours and it is determined to be in the best interests of his or her estate, the member may be referred expeditiously into the DES. To protect the interests of the government and the service member, disposition shall be placement on the TDRL provided all requirements under statute, legal opinions, and regulation are met .

b. In no case shall a service member be retired after his or her death or before completion of a required Line of Duty determination.

c. Determinations of death shall be made in accordance with accepted medical standards and the laws of the state where the member is located at the time of his/her evaluation or the military medical standards in effect in a foreign area where the member is located at the time of his/her evaluation.

d. Death Imminent medical board reports shall reference applicable state standards. Moreover, Death Imminent medical board reports for those members who, according to state standards, have died shall not be forwarded to the PEB for evaluation.

e. See enclosure (12) for a complete discussion of Death Imminent procedures.

3905 Mental Competency Issues

a. Reporting Presence Or Absence Of A Determination Of Mental Incompetence. Each medical board report shall affirmatively state whether or not records reflect the member being evaluated is or has ever been declared mentally incompetent or shows medical evidence of mental incompetence.

b. Cases In Which A Statement Concerning Competency Is Required

(1) Any MEB report listing a psychiatric diagnosis must contain a thorough psychiatric evaluation and include the signature of at least one psychiatrist (identified as such) on the MEB report signatory face sheet.

c. Determination of Mental Competency Required. When the medical board finds under paragraph 3905 that the member is not capable of managing his/her affairs, the medical board convening authority shall cause a determination of mental incompetency to be made as described in paragraph 3414c. The medical board shall include a copy of this incapacitation evaluation or competency certification in its report.

d. JAG Reporting Requirement. The medical board convening authority shall forward one copy of the medical board report and "Incapacitation " (or competency certification) to the appropriate personnel office as provided in JAGMAN, chapter XIV.

3906 Attempted Suicide

In each instance of an attempted suicide, the member concerned shall undergo psychiatric examination, and the report of that examination shall be included in any medical board report submitted for disability evaluation.

3907 Mental Illness With The Abuse Of Drugs And/ Or Alcohol

When the abuse of drugs and/or alcohol are significant factors in describing a condition of mental illness, the medical board shall provide detailed information with regard to the type and amount of drugs and/or alcohol used by the member as well as the frequency and duration of such abuse. Moreover, the board shall provide an opinion as to whether the abuse was a consequence of the mental illness, or whether such abuse was voluntary and precipitated the condition of mental illness.

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