

## **Definitions 2002-2086**

### **2002 Accepted Medical Principles**

Fundamental deductions, consistent with medical facts, which are so reasonable and logical as to create a virtual certainty that they are correct.

### **2003 Accession Standards**

Physical standards or guidelines that establish the minimum medical conditions and physical defects acceptable for an individual to be considered eligible for appointment, enlistment or induction into the military services under DoD Directive 6130.3 of 3 June 1994 (NOTAL).

### **2004 Active Duty**

Full-time duty in the active military service of the United States. It includes:

- a. Full-time Active Reserve Duty.
- b. Annual training .
- c. Attendance while in active military service at a school designated as service school by law or by the Secretary of the Military Department concerned.
- d. Service by a member of a Reserve component ordered to active duty (with or without consent), or active duty for training (with consent), with or without pay under competent orders.

### **2005 Active Duty For A Period Of More Than 30 Days**

Active duty under a call or order that does not specify a period of 30 days or less (10 U.S.C. 101(23)).

### **2006 Active Reserve Status**

Status of all Reserves not on an active-duty list maintained under Section 574 or 620 of 10 U.S.C. (reference (a)), except those on an inactive status list or in the Retired Reserve. Reservists in an active status may train with or without pay, earn retirement points, and may earn credit for and be considered for promotion. In accordance with the Reserve Officer Personnel Management Act (ROPMA), a member in an Active Reserve status must be on the Reserve Active-Status List (RASL)(10 U.S.C. 14002 reference (a)).

### **2007 Active Service**

Service on active duty or in the full-time Active Reserve program.

### **2008 Amputation**

- a. Upper Extremities: Amputation of part or parts of an upper extremity, which results in impairment at least equivalent to the loss of use of a hand.

b. Lower Extremities:

(1) Loss of a toe or toes, which precludes the ability to run or walk without perceptible limp, or to engage in fairly strenuous jobs.

(2) Any loss greater than that specified above to include foot, leg, or thigh .

**2009 Amputation Rule**

The combined rating for disabilities of an extremity shall not exceed the rating for the amputation at the elective level, were amputation to be performed. For example, the combined evaluations for disabilities below the knee shall not exceed the 40 percent evaluation, diagnostic code 5165. This 40 percent rating may be further combined with evaluation for disabilities above the knee but not exceed the above the knee amputation elective level. Painful neuroma of a stump after amputation shall be assigned the evaluation for the elective site of reamputation.

**2010 Analogous Ratings**

An unlisted condition may be rated under a code for a closely related disease or injury in which not only the functions affected, but also the anatomical localization and symptomatology are closely analogous. Conjectural analogies will be avoided, as will the use of analogous ratings for conditions of doubtful diagnosis, or for those not fully supported by clinical and laboratory findings. Nor will ratings assigned by analogy to organic diseases and injuries be assigned by analogy to conditions of functional origin.

**2011 Bilateral Factor**

When a partial disability results from injury or disease of both arms, both legs, or of paired skeletal muscles , the ratings for the disabilities of the right and left paired sides are first combined in the standard manner. Add 10 percent of the result (called the Bilateral Factor) to the first combined rating before proceeding with further combinations, or converting to degree of disability . Bilateral Factor is applied to the bilateral disability combination before final combinations with unpaired disabilities are carried out. Treat rating for a "Bilateral" disability (combined rating plus the Bilateral Factor) as one disability rating when arranging multiple impairments in order of severity prior to calculating further combinations. For example, with disabilities evaluated at 60 percent, 20 percent, 10 percent and 10 percent (the two 10s representing bilateral disabilities), the order of severity would be 60, 21 and 20. The 60 and 21 combine to 68 percent and the 68 and 20 to 74 percent, converted to 70 percent as the final degree of disability. (See paragraph b, below, when there is more than one paired disability.)

a. The terms "arms" and "legs" refer to the whole upper and lower extremities respectively. Thus, when there is a compensable disability of the right thigh (for example, amputation), and of the left foot (for example, amputation of the great toe ), the Bilateral Factor applies. Similarly, the Factor is applied whenever there are compensable disabilities affecting use of paired extremities regardless of location or specified type of impairment, except as noted in paragraph c., below.

b. The correct procedure when applying the Bilateral Factor to disabilities affecting both upper extremities and both lower extremities is to combine the ratings of the disabilities affecting the four extremities in order of their individual severity and apply the Bilateral Factor by adding 10 percent of the result to the total combined value thus attained.

c. Bilateral Factor is not applicable unless there is an unfitting disability in each of two paired extremities or paired skeletal muscles. Special instructions regarding the applicability of the Bilateral Factor are provided in various parts of the VASRD. For example, codes 7114 - 7117 and codes 8205 - 8412. Bilateral Factor is not applicable in skin disabilities rated under code 7806.

### **2012 Clear and Convincing Evidence**

As a standard of proof, it is that quantum of evidence beyond a mere preponderance, but below that of "beyond a reasonable doubt," such that it will produce in the mind of the fact finder a firm belief as to the facts sought to be established.

### **2013 Combat-Related Injury Or Disease**

This standard covers those injuries and diseases attributable to the special dangers associated with armed conflict or the preparation or training for armed conflict. Consider physical disability to be combat-related if the injury or disease, by itself, makes the member Unfit, and was incurred under any of the circumstances listed below.

a. As a direct result of armed conflict: Armed conflict (5 U.S.C. 3502, 5532, 6303) (part 5 of reference (c)). The physical disability is a disease or injury incurred in the line of duty as a direct result of armed conflict. The fact that a member may have incurred a disability during a period of war or in an area of armed conflict, or while participating in combat operations, is not sufficient to support this finding. There must be a definite causal relationship between the armed conflict and the resulting Unfitting disability.

(1) Armed conflict includes a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerrilla action, riot, or any other action in which service members are engaged with a hostile or belligerent nation, faction, force, or terrorists.

(2) Armed conflict also may include such situations as incidents involving a member while interned as a prisoner of war or while detained against his or her will in custody of a hostile or belligerent force, or while escaping or attempting to escape from such confinement, prisoner of war, or detained status.

b. While engaged in extra hazardous service. Such service includes, but is not limited to, aerial flight duty, parachute duty, demolition duty, experimental stress duty, and diving duty.

c. Under conditions simulating war. In general, this covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne

operations, leadership reaction courses; grenade and live fire weapons practice; bayonet training; hand-to-hand combat training; repelling, and negotiation of combat confidence and obstacle courses. It does not include physical training activities, such as calisthenics and jogging or formation running and supervised sports.

d. Caused by an instrumentality of war. Occurrence during a period of war is not required. A favorable determination is made if the disability was incurred during any period of service as a result of such diverse causes as wounds caused by a military weapon, accidents involving a military combat vehicle, injury, or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or material. However, there must be a direct causal relationship between the instrumentality of war and the disability. For example, an injury resulting from a service member falling on the deck of a ship while participating in a sports activity would not normally be considered an injury caused by an instrumentality of war (the ship) since the sports activity and not the ship caused the fall. The exception occurs if the operation of the ship caused the fall. See paragraphs 3506 and 3507.

#### **2014 Compensable Disability**

A medical condition determined to be Unfitting by reason of physical disability, which meets the statutory criteria under Chapter 61 of 10 U.S.C., reference (a) for entitlement to disability retired or severance pay.

#### **2015 Competency Board**

A board consisting of at least three medical officers or physicians (including one psychiatrist) convened to determine whether a member is competent (capable of making a rational decision regarding his or her financial affairs). See paragraph 2046 (Mental Incompetence).

#### **2016 Conditions Not Constituting a Physical Disability**

Certain conditions and defects of a developmental nature designated by the Secretary of Defense do not constitute a physical disability and are not ratable in the absence of an underlying ratable causative disorder. If there is a causative disorder, rate it in accordance with other provisions of this instruction. These conditions include, but are not limited to, those listed in the paragraph below. Such conditions should be referred for appropriate administrative action under other laws and regulations.

- a. Enuresis
- b. Sleepwalking and/or Somnambulism
- c. Dyslexia and Other Learning Disorders
- d. Attention Deficit Hyperactivity Disorder
- e. Stammering or Stuttering
- f. Incapacitating fear of flying confirmed by a psychiatric evaluation

- g. Airsickness, Motion, and/or Travel Sickness
- h. Phobic fear of Air, Sea and Submarine Modes of Transportation
- i. Certain Mental Disorders including:
  - (1) Uncomplicated Alcoholism or other Substance Use Disorder
  - (2) Personality Disorders
  - (3) Mental Retardation
  - (4) Adjustment Disorders
  - (5) Impulse Control Disorders
  - (6) Homosexuality
  - (7) Sexual Gender and Identity Disorders and Paraphilias
  - (8) Sexual Dysfunction
  - (9) Factitious Disorder
- j. Obesity
- k. Over height
- l. Psuedofolliculitis barbae of the face and/or neck
- m. Medical Contraindication to the Administration of Required Immunizations
- n. Significant allergic reaction to stinging insect venom
- o. Unsanitary habits
- p. Certain Anemia's (in the absence of unfitting sequelae) including G6PD Deficiency, other inherited Anemia Trait, and Von Willebrand's Disease
- q. Allergy to Uniformed Clothing or Wool
- r. Long sleeper syndrome
- s. Hyperlipidemia

### **2017 Convalescent Rating (see VASRD)**

This principle does not apply to the ratings awarded by the DON since it is presumed the member has had an appropriate amount of time for convalescence prior to submission of the medical board.

### **2018 Death**

Total and permanent cessation of all vital functions. A determination of death must be made in accordance with accepted medical standards and the laws of the State where the member is located or the military medical standards in effect at an overseas location. See paragraph 3904.

### **2019 Deployable**

A determination that the member is free of a medical condition(s) that prevents positioning the member individually or as part of a unit, with or without prior notification, to a location outside the Continental United States for an unspecified period of time. Non-deployability does not necessarily equate to Unfitness.

### **2020 Disability Benefits**

a. Active Duty. Disability retirement pay and severance pay, authorized by 10 U.S.C., Chapter 61, provided for members, who, if otherwise qualified, become Unfit to continue naval service because of physical disability acquired or aggravated while entitled to receive basic pay. Once released from active duty and no longer entitled to receive base pay, members or former members are not authorized benefits under 10 U.S.C., Chapter 61, even though their disabilities are service connected. Rather, such members or former members must file separate disability claims with the Department of Veterans Affairs (VA).

b. Reserve Component Members. A Reserve component member shall be adjudicated under the statutory provisions applicable to his or her duty status at the time of onset or aggravation of the condition for which the member is determined Unfit. This means a Ready Reserve member not on extended active duty at the time of his or her referral into the DES, but who is determined Unfit for a disability incurred or aggravated while the member was on a call to active duty of more than 30 days, comes under the provisions of 10 U.S.C. 1201 - 10 U.S.C. 1203 and not 10 U.S.C. 1204 - 1206 (reference (a)). In such a situation, "in line of duty while entitled to basic pay" rather than "proximate result" is the applicable statutory requirement for entitlement to disability compensation.

### **2021 Disability Retired Pay**

Regular periodic compensation a member receives who is retired because of disability from active service.

### **2022 Disability Severance Pay**

One-time compensation received by a member who is discharged because of disability resulting from active service. Also, see 10 U.S.C. 1212.

### 2023 Disposition

PEB directs service headquarters to effect a member's status within the naval service. As used in this instruction, "disposition" may mean one or a combination of the following:

<u>Disposition:</u>	<u>Directed Action</u>
Fit to continue naval service	Return to duty Discharge under other provisions of law Remove from TDRL
Unfit to continue naval service	Discharge with severance pay Discharge without severance pay Transfer to TDRL Continue on TDRL Transfer to Permanent Disability Retired List
Physically Qualified for continued naval service in the Reserves	Return to duty
Not Physically Qualified for continued naval service in the Reserves	Discharge from the Reserves Non-Disability Retirement (more than 15 years service-10 U.S.C. 12731b)

Administrative removal from the TDRL for failure to undergo 18-month periodic physical examinations, and discharge without severance pay and other benefits will be effected at the end of the service member's 5-year authorized TDRL period.

### 2024 Duty Related Impairments

Impairments which, in the case of a member on active duty for 30 days or less, are the proximate result of, or were incurred in the line of duty after September 23, 1996, as a result of:

- a. Performing active duty or inactive duty training ;
- b. Traveling directly to or from the place at which such duty is performed; or
- c. After September 23, 1996, an injury, illness, or disease incurred or aggravated while remaining overnight, between successive periods for purposes of IDT, at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance of the member's residence. Reasonable commuting distance is defined as a 100-mile radius.

### 2025 En Bloc

See paragraph 2054 Notification of Decision.

**2026 Existed Prior To Entry (EPTE)**

A finding formerly used by the PEB when evidence established that the member was Unfit due to a medical impairment that existed prior to entry in the military service which was not permanently aggravated by military service; therefore, was not rated. The term EPTE as used in previous versions of this instruction means the same as, and has been replaced by, the term Existed Prior to Service (EPTS).

**2027 Existed Prior To Service (EPTS)**

A finding by the PEB that evidence establishes that the member is Unfit to continue naval service due to a medical impairment that manifested or existed prior to entry in the military service which has not been permanently aggravated by military service. Members found Unfit – EPTS, Not Ratable are not eligible for disability severance pay or disability retirement if they have less than 8 years cumulative active service, but may be eligible for severance pay or retirement under other provisions of law (See “What is the 8 year rule” enclosure (10)). The term EPTS as used in references (b) through (d) and for the purposes of this instruction replaces the term EPTE .

**2028 Extended Active Duty**

Active duty under orders specifying a period of more than 30 days.

**2029 Final Reviewing Authority**

That position with the power to make final decisions on cases before the PEB.

**2030 Final Decision**

A final decision shall be construed as having been issued when:

- a. the member accepts, either actually or constructively, the findings of the PEB following a record review, subject to review and approval, or
- b. the President, PEB, issues the Findings Letter following a formal hearing, or
- c. a PFR is acted upon by the DIRNCPB or higher authority.

**2031 Findings**

Decisions concerning a member's Fitness to continue naval service and disability eligibility and rating arrived at by the PEB.

**2032 Findings Letter**

A letter from the President, PEB, DIRNCPB, or SECNAV to the member being processed within the DES informing him or her of the findings of the PEB.

**2033 Fit**

A finding by the PEB meaning that the member is Fit to continue naval service based on evidence that establishes that the member is reasonably able to perform the duties of his or her office, grade, rank or rating, to include duties during a remaining period of



Reserve obligation. Within a finding of Fit to continue naval service is the understanding that the mere presence of a diagnosis is not synonymous with a disability. It must be established that the medical disease or condition underlying the diagnosis actually interferes significantly with the member's ability to carry out the duties of his or her office, grade, rank or rating. Members found Fit to continue naval service by the PEB are eligible for appropriate assignment. However, a finding of Fit by the PEB does not preclude subsequent temporary determinations of unsuitability for deployment or PRT/PFT participation, disqualification for special duties, Temporary Limited Duty or administrative action resulting from such determinations.

#### **2034 Full And Fair Hearing**

A hearing held by a board, before which the Service member has the right to make a personal appearance with the assistance of counsel, and to present evidence in his or her behalf.

#### **2035 Guardian /Committee**

Person or persons appointed by a court of competent jurisdiction to act for a mentally incompetent member under limitations, if any, established by the court. Their actions are legally binding on the member.

#### **2036 Impairment Of Function**

Any disease or residual of an injury that results in a lessening or weakening of the capacity of the body or its parts to perform normally, according to accepted medical principles.

#### **2037 Inactive Duty Training (IDT)**

Duty prescribed for Reservists, other than active duty or full-time National Guard Duty, under 37 U.S.C. 206 or other provision of law. It does not include work or study in connection with a correspondence course of a Uniformed Service .

#### **2038 Incapacitation Board**

See paragraphs 2015 Competency Board, 2046 Mental Incompetence.

#### **2039 Incurred While Entitled To Receive Basic Pay**

a. "Incurred " refers to the date or time when a disease or injury is contracted or suffered, as distinguished from a later date, when the PEB determines that a member has become Unfit to continue naval service as a result of such disease or injury. Physical disability due to natural progression of disease or injury is "incurred" at the time the disease or injury causing the disability is contracted. When the increase in physical impairment during service is in excess of that due to natural progression of the disease or injury, the increase is due to aggravation by service.

b. "While entitled to receive basic pay" encompasses all types of duty, which entitled the member concerned to receive active duty basic pay. It also includes any duty without pay, which may be counted the same as duty with pay, such as reserve personnel drilling in non-pay billets. For purposes of administering disability benefit under 10 U.S.C.,

Chapter 61, midshipmen are not entitled to receipt of basic pay. In addition, members in an appellate or excess leave status are not entitled to receive basic pay. This definition shall not be construed to entitle any member not on active duty, who, at the time of separation from active duty was considered Fit to continue naval service, to benefits under 10 U.S.C., Chapter 61, because of an increase in impairment occurring while the member was not entitled to basic pay.

#### **2040 Injury**

Damage or wound to the body, traumatic in origin.

#### **2041 Instrumentality Of War**

A vehicle, vessel, or device designed primarily for Military Service, and intended for use in such service at the time of the occurrence of the injury . It also may be a vehicle, vessel, or device not designed primarily for Military Service if use of or occurrence involving such a vehicle, vessel, or device subjects the individual to a hazard peculiar to Military Service. This use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits. There must be a direct causal relationship between the use of the instrumentality of war and the disability, and the disability must be incurred incident to a hazard or risk of the service.

#### **2042 Line of Duty Investigation**

An inquiry used to determine whether an injury or disease of a member performing military duty was incurred in a duty status; if not in a duty status, whether it was aggravated by military duty; and whether incurrence or aggravation was due to the member's intentional misconduct or willful negligence.

#### **2043 Medical Evaluation Board (MEB)**

A body of physicians (or others specifically designated by CHBUMED) convened in accordance with reference (f), Chapter 18, to identify members whose physical and/or mental qualification to continue on full duty is in doubt or whose physical and/or mental limitations preclude their return to full duty within a reasonable period of time. They are convened to evaluate and report on the diagnosis; prognosis for return to full duty; plan for further treatment, rehabilitation, or convalescence; estimate of the length of further disability; and medical recommendation for disposition of such members.

#### **2044 Member**

Unless otherwise defined, a "member" may be a commissioned officer, commissioned warrant officer, warrant officer, aviation candidate or enlisted person of the regular or reserve forces, including a retired person of the naval service. The term "retired person" includes members of the Fleet Reserve and Fleet Marine Corps Reserve who are in receipt of retainer pay. Midshipmen of the Navy are not "members" (10 U.S.C. 5001).

a. "Navy" means the U.S. Navy. It includes the Regular Navy, the Fleet Reserve and the Naval Reserve.

b. "Marine Corps" means the U.S. Marine Corps. It includes the Regular Marine Corps, the Fleet Marine Corps Reserve and the Marine Corps Reserve.

c. "Member of the Naval Service " means a person appointed or enlisted in, or inducted or conscripted into, the Navy or the Marine Corps.

**2045 Member, Enlisted**

A person serving in an enlisted grade or rating (10 U.S.C. 5001 (a)(4)).

**2046 Mental Incompetence**

Mental incompetence is the condition of a member who has been found by medical authority designated in paragraph 3414 to be mentally incapable of managing his or her own financial or personal affairs. For the purposes of this instruction, mental incompetency and mental incapacitation are synonymous.

**2047 Misconduct**

For purposes of disability entitlements, misconduct consists of Intentional Misconduct or Willful Neglect as described in paragraphs 2087 and 3410d.

**2048 Natural Progression**

The worsening of a pre-Service impairment that would have occurred as a result of similar activity regardless of Military Service .

**2049 Next Of Kin**

Next of kin in order of preference: spouse; if no spouse, eldest child over age of majority (including children of a prior marriage); if there is no spouse and no child is over the age of majority, then the father or mother (when parents are living together, or separate after the member has entered the service, the father is normally considered the next of kin. When parents separate or divorce before the member's entry into the service, the parent having legal custody of the member will be considered the next of kin. If neither or both parents had legal custody, give preference to the parent the member resided with prior to entry into the service); if none of the foregoing, then the eldest sibling or other blood relative in that order.

**2050 Non-Compliance**

The unreasonable failure or refusal to submit to prescribed therapy, which aggravates a member's degree of disability. This includes, but is not limited to, the refusal to submit to medical or surgical treatment or therapy, to take prescribed medications, or to observe prescribed restrictions on diet, alcohol, drugs, or tobacco. See paragraph 3805.

**2051 Non-Deployable**

A determination made by service personnel authorities or local medical authorities that the member has a medical condition (s) that temporarily or permanently prevents positioning the member individually or as a part of a unit with or without prior notification to a location outside the Continental United States for a specified period of time. The

inability to perform duties in every geographic location and under every conceivable circumstance is not the standard to be used as the basis for making this determination. Members who are determined to be non-deployable for a condition that is permanent in nature and significantly interferes with his or her ability to perform the duties of office, grade, rank or rating should be referred to the PEB for disability evaluation. While non-deployability shall be one of many factors considered by the PEB in determining Fitness for continued naval service, non-deployability alone will not normally constitute a basis for a finding of Unfit to continue naval service. See paragraphs 2033 (Fit), 2085 (Unfit).

### **2052 Non-Duty Related Impairments**

Impairments of members of the Reserve components that were neither incurred nor aggravated while the member was performing duty, to include no incident of manifestation while performing duty which raises the question of aggravation. Members with nonduty related impairments are eligible to be referred to the PEB for solely a Fitness determination but not a determination of eligibility for disability benefits.

### **2053 Notice Of Eligibility (NOE)**

A document that is issued when it is determined that an injury or disease was incurred or aggravated by reserve service and may authorize disability severance pay or disability retired pay to include medical care, travel to and from medical treatment, incapacitation pay and/or drill pay and processing through the DES. A member of the selected reserve with more than 15 years of service is eligible for a non-regular retirement.

### **2054 Notification Of Decision (En Bloc)**

A document issued by the President, PEB or DIRNCPB informing the CHNAVPERs or CMC (M&RA), as appropriate, of the final decision and directing disposition in a member's case.

### **2055 Not Physically Qualified (NPQ) For Continued Naval Service**

A PEB-directed disposition applied to a reservist when he or she is unable to continue service in the Naval or Marine Corps Reserves because of a non-duty related disease or injury which precludes the member from performing the duties of his or her office, grade, rank, or rating in such a manner as to reasonably fulfill the purpose of his or her reserve employment. An NPQ vice Unfit determination is made in those cases in which an NOE has not been granted by CHNAVRES or CMC (M&RA).

### **2056 Observation Ratings**

The VASRD, in cases of malignancy, has ratings applicable for a 6-month to 2-year period of observation. Following this period of observation, residuals will be rated. Observation ratings do apply to the Military Departments if the member is found UNFIT.

### **2057 Office, Grade, Rank, Or Rating, Military Occupational Specialty (MOS)**

- a. Office. A position of duty, trust, authority to which an individual is appointed.

b. Grade. A step or degree in a graduated scale of office or military rank that is established and designated as a grade by law or regulation (E-7, O-5, W-2).

c. Rank. The order of precedence among members of the Armed Forces.

d. Rating. The occupational fields prescribed for Sailors (BM, Boatswain's Mate; DT, Dental Technician; etc.) or Primary Military Occupational Specialties (PMOS) prescribed for Marines (0311, Rifleman; 3531, Motor Vehicle Operator; etc). Does not include secondary specialties (NEC or SMOS).

#### **2058 Officer**

"Officer " means a member of the naval service serving in a commissioned or warrant officer grade . It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade (10 U.S.C. 5001(a)(5)).

#### **2059 Officer, Commissioned**

"Commissioned Officer " means a member of the naval service serving in a grade above warrant officer, W-1. It includes, unless otherwise specified, a member who holds a permanent enlisted grade or the permanent grade of warrant officer, W-1, and a temporary appointment in a grade above warrant officer, W-1 (10 U.S.C. 5001(a)(6)).

#### **2060 Officer, Warrant**

"Warrant Officer " means a member of the naval service serving in a warrant officer grade. It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a warrant officer grade (10 U.S.C. 5001(a)(7)).

#### **2061 Optimum Hospital And Medical Treatment Benefits**

The point of hospitalization or treatment when a member's progress appears to be stabilized; or when, following administration of essential initial medical treatment, the patient's medical prognosis for being capable of performing further duty can be determined.

#### **2062 Pending Retirement**

Service members shall be considered to be pending retirement when the dictation of the member's MEB report occurs after any of the circumstances designated in subparagraphs a through e below. See paragraph 3305.

a. When a member's request for voluntary retirement has been approved. Revocation of voluntary retirement orders for purposes of referral into the DES does not negate application of the presumption .

b. An officer has been approved for Selective Early Retirement.

c. An officer is within 12 months of mandatory retirement due to age or length of service .

d. An enlisted member is within 12 months of his or her High Year Tenure (HYT) or expiration of active obligated service (EAOS) and will be eligible for retirement at his or her HYT or EAOS.

e. An enlisted member is within 12 months of retirement eligibility and the member's EAOS has or will expire prior to the member being retirement eligible.

### **2063 Percentage Of Disability**

Percentage ratings of the VASRD, as modified by enclosure (9) of this instruction, represent, as far as can practicably be determined, the average impairment in earning capacity resulting from diseases and injuries and their residual conditions in civil occupations.

### **2064 Performing Military Duty Of 30 Days Or Less**

Term used to inclusively cover the categories of duty pertaining to 10 U.S.C. 1204 - 1206 (reference (a)) (active duty, IDT, and travel directly to and from active duty or IDT).

### **2065 Permanent Limited Duty (PLD)**

The continuation on active duty or in the Ready Reserve in a limited duty capacity of a service member determined Unfit as a result of physical disability evaluation or medical disqualification. Authority to grant PLD is limited to service headquarters.

### **2066 Permanent Nature Of A Disability**

For the purpose of this instruction, this term means that a service member is not able to return to full military duties. It does not mean that the condition is stabilized nor does it mean that it will continually impact on the member's future earning capacity.

### **2067 Petition For Relief (PFR)**

When the findings of the PEB become final, after a Formal PEB hearing, and the member has exhausted all available options with the PEB, members who have not been discharged or separated, and TDRL personnel, may Petition For Relief (PFR). Members who have been separated or permanently retired may still petition the Board for Correction of Naval Records (BCNR). The only bases for relief by means of PFR are:

- a. New or Newly Discovered Evidence.
- b. Fraud, Misrepresentation, or Other Misconduct .
- c. Mistake Of Law.

See enclosure (5) of this instruction.

### **2068 Physical Disability**

Any impairment due to disease or injury, regardless of degree, that reduces or prevents an individual's actual or presumed ability to engage in gainful employment or normal activity. The term "physical disability" includes mental disease, but not such

inherent defects as behavioral disorders, adjustment disorders, personality disorders, and primary mental deficiencies. A medical impairment or physical defect standing alone does not constitute a physical disability. To constitute a physical disability, the medical impairment or physical defect must be of such a nature and degree of severity as to interfere with the member's ability to adequately perform his or her duties.

#### **2069 Preliminary Findings Letter**

Initial findings from the Informal PEB.

#### **2070 Preponderance Of Evidence**

Evidence that tends to prove one side of a disputed fact by outweighing the evidence on the other side (that is, more than 50 percent). Preponderance does not necessarily mean a greater number of witnesses or a greater mass of evidence; rather, preponderance means a superiority of evidence on one side or the other of a disputed fact. It is a term that refers to the quality, rather than the quantity of the evidence. "More likely than not." See paragraph 2012 (Clear and Convincing).

#### **2071 Presumed Fit (PFit )**

PEB finding applied to service members pending retirement at the time they are referred to the PEB for disability evaluation and, therefore, are evaluated under a presumption of Fitness. A finding of PFit means evidence establishes that the member's functional impairment has not caused the premature termination of their career. Members found to be PFit are afforded the same rights within the DES as those found Fit to continue naval service. Members found PFit are not eligible for disability retirement, but are eligible for retirement under other provisions of law, and for evaluation by the VA for disability compensation. See paragraph 3305.

#### **2072 Presumption**

An inference of the truth of a proposition or fact, reached through a process of reasoning and based on the existence of other facts. Matters that are presumed need no proof to support them, but may be rebutted by evidence to the contrary.

#### **2073 Prior Service Impairments**

Any medical condition incurred or aggravated during one period of service or authorized training in any of the Armed Forces that recurs or is aggravated during later service or authorized training, regardless of the time between. Prior Service Impairments normally should be considered incurred in the line of duty provided the condition or subsequent aggravation was not the result of the member's misconduct or willful negligence. See paragraph 3409.

#### **2074 Proximate Result**

A permanent disability the result of, arising from, or connected with active duty, annual training, active duty for training, or inactive duty training (IDT), (etc.) to include travel to and from such duty or remaining overnight between successive periods of inactive duty training. Proximate result is a statutory criteria for entitlement to disability compensation under Chapter 61 of reference (a) applicable to Reserve component members

who incur or aggravate a disability while performing an ordered period of military duty of 30 days or less.

### **2075 Pyramiding**

Term used to describe the application of more than one rating to any area or system of the body when the total functional impairment of that area or system is reflected adequately under a single appropriate code. Disability from injuries to the muscles, nerves, and joints of the extremity may overlap to a great extent. Special rules for their valuation are included in appropriate sections of the VASRD and in part (8) of enclosure (3) of this instruction. Related diagnoses should be merged for rating purposes when the VASRD provides a single code covering all manifestations. This prevents pyramiding and reduces the chance of over-rating. For example, disability from fracture of a tibia involving malunion, limitations of dorsiflexion, eversion, inversion, and subtalar motion, as well as traumatic arthritis of the ankle would be rated using one diagnostic code (5271) that reflects overall ankle function, rather than by adding separate ratings for the limitations of motion and the traumatic arthritis.

### **2076 Ready Reserve**

Units and individual reservists liable for active duty as outlined in Sections 12301 (Full Mobilization) and 12302 (Partial Mobilization) of 10 U.S.C. (reference (a)). This includes members of units, members of the Active Reserve Program, Individual Mobilization Augmentees and the Individual Ready Reserve.

### **2077 Reserve Component**

Either the United States Naval Reserve or the United States Marine Corps Reserve (10 U.S.C. 10101).

### **2078 Retention Standards**

Physical standards or guidelines that establish those medical conditions or physical defects that may render a service member Unfit for further military service and are therefore cause for referral of the member into the DES.

### **2079 Secretary**

Unless otherwise qualified, refers to the Secretary of the Navy.

### **2080 Service Aggravation**

The permanent worsening of a pre-service medical condition over and above the natural progression of the condition caused by trauma or the nature of military service .

### **2081 Temporary Disability Retired List (TDRL )**

A list maintained by the CNO or CMC of members Unfit to continue naval service because of physical disability, who meet the requirements of 10 U.S.C., Chapter 61 for disability retirement, and whose disabilities are not yet determined to be stabilized or permanent. Except for cases processed under imminent death procedures, members with



unstable conditions rated at a minimum of 80 percent and which are not expected to improve to less than an 80 percent rating, shall be permanently retired.

### **2082 Temporary Limited Duty (TLD)**

Specified period of limited duty, normally not to exceed 16 months per career, cumulative, authorized initially at a medical treatment facility (except for officer MEBs or MEBs longer than 8 months) by a medical board for cases in which the prognosis is that the member can be restored to full duty within the specified period. See paragraph 1001j and 1008b.

### **2083 Trustee**

a. 37 U.S.C. 602 authorizes the SECNAV to appoint any person to receive active duty or retired pay of an incompetent member for the benefit of the member. That authority has been delegated to the Defense Finance and Accounting Service (DFAS).

b. A trustee appointed by the DFAS for the purposes of 37 U.S.C. 602 is a person authorized to receive and distribute the active duty or retired pay of a member of the Navy or Marine Corps, for the benefit of the member, who has been found mentally incapable of managing his or her financial affairs. This person, or the primary next of kin, has authority to act for the member in electing the member's options following receipt of PEB findings .

### **2084 Unauthorized Absence**

Any absence from duty without authority such as contemplated under Articles 85 and 86 of the UCMJ.

### **2085 Unfit**

A finding by the PEB that the member is Unfit to continue naval service based on evidence which establishes that the member is unable to reasonably perform the duties of his or her office, grade, rank or rating, to include duties during a remaining period of Reserve obligation. The PEB requests service headquarters to separate or retire members found Unfit to continue naval service. See paragraph 2033 (Fit).

### **2086 Unreasonable Refusal of Treatment**

Unreasonable failure to act in accordance with medical, surgical or dental treatment requirements. See paragraph 3413.

### **2087 Willful Neglect**

Intentional, unjustifiable, and inexcusable failure of the individual to perform some act or duty:

a. required in the occupation in which the individual was engaged at the time of incurring a physical impairment, or

b. required of the individual as a legal obligation, or

c. which could be reasonably evident to the average individual as required to protect such an individual from foreseeable injury or harm. See paragraph 3410d.

**2088 – 2099 Reserved**