

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter CC49--Officers' Relations, Services, and Benefits  
Subchapter CC49.3 – Medical and Health Programs  
Personnel INSTRUCTION 1 – Medical Review Boards

CONTENTS

<u>Section</u>	<u>Subject</u>	<u>Page</u>
A.	Purpose and Scope .....	1
B.	Authority .....	1
C.	Composition of Medical Review Boards and Medical Appeals Boards .....	2
D.	Duties and Responsibilities of the Board .....	2
E.	Actions by the Surgeon General .....	3
F.	Cross Reference .....	3
G.	Historical Notes .....	3
H.	Privacy Act Provisions .....	4

Section A. Purpose and Scope

The regulations contained in Section B. of this INSTRUCTION prescribe the procedures for establishing Medical Review Boards and Medical Appeals Boards and their duties and responsibilities. Medical Review Boards review the medical records of officers, and in some cases, applicants to determine fitness-for-active-duty.

Section B. Authority

42 U.S.C. 216 authorizes the Secretary to administer the Commissioned Corps of the Public Health Service (PHS). 42 U.S.C. 253 authorizes health care for PHS officers.

Section 213a(a)(2), 42 U.S.C. authorizes the application of Title 10, Chapter 61, to the PHS Commissioned Corps in certain instances.

Section 42 CFR 31.4 "Medical Care for Certain Personnel of the Coast Guard, NOAA, Public Health Service and former Lighthouse Service."

Section C. Composition of Medical Review Boards and  
Medical Appeals Boards

Medical Review Boards will consist of three senior grade officers (O-5 and above). At least one will be a medical officer. Medical Appeals Boards will consist of three or more medical officers who did not serve as a member of the Medical Review Board. A non-voting PHS representative may be assigned to provide consultation to the Board on legal and policy issues.

Section D. Duties and Responsibilities of the Board

The Surgeon General (SG) or his/her designee will appoint Medical Review Boards as needed to review cases of:

1. Applicants to determine eligibility for an appointment into either the Regular or Reserve Corps.
2. Officers to:
  - a. Determine qualification of Reserve Corps officers reappointed to the position without taking a physical examination;
  - b. Assess cases that have been placed on the temporary disability retirement list and require periodic physical examinations;
  - c. Determine qualification to retire due to physical disabilities as established by medical records or other supportive documentation;
  - d. Review cases when physical examination reveals a possible physical disqualification for further service after an appointment to the Regular Corps or call to active duty in the Reserve Corps;
  - e. Make determinations on cases where there are questions related to physical qualifications of officers of the Regular or Reserve Corps that could impede their appointment, reappointment, continued active-duty assignment, separation, retirement, or promotion.
3. The Medical Review Board will have access to all information (records) submitted to the SG or his/her designee, pursuant to 42 CFR 30.4. The Board may require an officer whose case is under review to undergo further examinations, appear to answer additional questions or produce documents pertinent to his/her health history or activities during the time when the alleged disability started or was aggravated. Upon conclusion of its examination and deliberation, the Board will report its findings and recommendations to the SG.
4. Medical Appeals Boards will provide the officer with a full and fair hearing in accordance with guidelines published in Commissioned Corps Personnel Manual Pamphlet No. 47, "Disability Evaluation Manual for the Commissioned Corps of the U.S. Public Health Service."

Section E. Actions by the Surgeon General

Upon receipt of a report from a Medical Review or Medical Appeals Board, the SG may:

1. Concur with the Board's finding(s) and recommendation(s);
2. Return the report to the Board for further investigation and recommendations;
3. Dissolve the Board and appoint a new Board to complete the investigation; or
4. Appoint a new Board to reinvestigate the case.

The determination of the SG will be final and binding on all parties.

Section F. Cross Reference Section

1. Commissioned Corps Personnel Manual Pamphlet No. 47, "Disability Evaluation Manual for the Commissioned Corps of the U.S. Public Health Service."

Section G. Historical Notes Section

This INSTRUCTION references existing regulations published in the CFR and revises INSTRUCTION 1, "Medical Review Boards," Subchapter CC49.3 of the CCPM, PHS Commissioned Corps Transmittal No. 649, dated July 12, 2000.

PHS Commissioned Corps Transmittal No. 649, dated July 12, 2000, was revised to authorized the commissioned corps Medical Review Boards membership to consists of three senior grade officers (O-5 and above), with at least one member being a medical officer. This INSTRUCTION replaced INSTRUCTION 1, "Medical Review Boards ," Subchapter CC49.3 of the CCPM, PHS Commissioned Corps Transmittal No. 290, dated October 25, 1979.

PHS Commissioned Corps Transmittal No. 290, dated October 25, 1979. On July 26, 1979, the Secretary, Department of Health, Education, and Welfare, approved a Final Rule which deleted certain PHS Commissioned Corps regulations form the CFR and authorized their publication in the Commissioned Corps Personnel Manual (CCPM). The Final Rule was published in the Federal Register on August 9, 1979 (44 Fed. Reg. 46846-46847).

Section H. Privacy Act Provisions

Personnel records are subject to the Privacy Act of 1974. The applicable systems of records are 09-40-0001, "PHS Commissioned Corps General Personnel Records, HHS/PSC/HRS" and 09-40-0003, "PHS Commissioned Corps Board Proceedings, HHS/PSC/HRS," 09-40-0004, "PHS Commissioned Corps Grievance, Investigatory and Disciplinary Files, HHS/PSC/HRS."

---

Secretary  
Health and Human Services

---

Date