



CCD 128.01  
EFFECTIVE DATE: 16 July 2020

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**By Order of the Secretary of Health and Human Services:**

**Alex M. Azar II**

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SUBJECT: Medical Fitness for Duty

1. PURPOSE: This Directive prescribes the procedures for determining an individual's fitness for duty and establishes Medical Review Boards (MRB) and Medical Appeals Boards and the powers and duties of such boards.
2. APPLICABILITY: This Directive:
  - 2-1. Applies to all members of the Regular Corps serving on extended active duty.
  - 2-2. Applies to members of the Ready Reserve Corps in accordance with [10 U.S.C. Chapter 61](#), except that Sections 1201, 1202, and 1203 do not apply to members who have been ordered to active duty for training for a period of more than 30 days.
  - 2-3. Applies to candidates for a commission in the Corps, but such applicability is limited to the referral of the candidate to a Medical Review Board for a recommendation regarding whether the candidate meets the medical accession standards.
  - 2-4. Does not apply to students who have been ordered to active duty in the Uniformed Services University of the Health Sciences (USUHS) School of Medicine, officers appointed to the Junior and Senior Commissioned Officer Student Training and Extern Program (JRCOSTEP and SRCOSTEP), and officers appointed to a training program who do not meet appointment standards to qualify for appointment in the Regular Corps.
3. AUTHORITY:
  - 3-1. [42 U.S.C. § 204a](#), "Deployment readiness"
  - 3-2. [42 U.S.C. § 216](#), "Regulations"
  - 3-3. [10 U.S.C. § 1216](#), "Secretaries: powers, functions, and duties"
  - 3-4. [42 U.S.C. § 213a\(a\)\(2\)](#), "Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee"
  - 3-5. [42 U.S.C. § 217](#), "Use of Service in time of war or emergency"

- 3-6. [10 U.S.C. Chapter 61](#), "Retirement or Separation for Physical Disability" (§§ 1201, 1202, and 1203 do not apply to officers who have been ordered to active duty for training for a period of more than 30 days)
4. PROPONENT: The proponent of this Directive is the Secretary of the Department of Health and Human Services (HHS or Department).
5. SUMMARY OF REVISIONS AND UPDATES: This is the second issuance of this Directive in the electronic Commissioned Corps Issuance System (eCCIS) and replaces Commissioned Corps Directive (CCD) 128.01, "Medical Fitness for Duty," dated 7 June 2019. This version:
  - 5-1. Changes applicability to members of the Regular Corps serving on extended active duty and to members of the Ready Reserve Corps, except as stipulated in Section 2.

## 6. POLICY:

- 6-1. General Policy. Corps officers are appointed to general service and must be medically fit to deploy in response to urgent and emergency public health needs, any required military mission, and for duty in various environments and work assignments.
- a. Candidates seeking an appointment to either the Ready Reserve Corps or Regular Corps must meet the medical accession standards established by the Assistant Secretary for Health (ASH).
  - b. Officers on active duty must meet the medical readiness standards established by the ASH. Absent a medical waiver approved by the ASH or his/her designee, an officer who does not meet the medical readiness standards may not be retained on active duty in either the Ready Reserve Corps or Regular Corps.
  - c. For the purposes of this Directive, medical disability, examination, and standards, etc., includes physical, dental, and mental health disabilities, examinations, and standards, etc.
- 6-2. Disability Retirement. Upon a determination by the ASH or his/her designee that a Corps officer is unfit to perform the duties of the officer's position/billet, office, grade, rank, rating, or the officer's inability to deploy in response to urgent and emergency public health needs or any required military mission because of physical disability incurred while entitled to basic pay, the ASH or his/her designee may retire the officer and make the determinations with respect to the officer and that disability.
- a. In making a determination of disability of an officer, the ASH or his/her designee:
    - (1) Shall utilize the Department of Veterans Affairs Schedule for Rating Disabilities (VASRD), including any applicable interpretation of the schedule by the United States Court of Appeals for Veterans Claims; and
    - (2) Except as provided in Section 6-2.b., may not deviate from the schedule or any such interpretation of the schedule.
  - b. In making a determination described in Section 6-2.a., the ASH or his/her designee may utilize, in lieu of the VASRD, such criteria as the Secretaries of Defense and Veterans Affairs may jointly prescribe for purposes of this Section if the utilization of such criteria will result in a determination of a greater percentage of disability than would be otherwise determined through the utilization of the VASRD.
  - c. Upon a determination by the ASH or his/her designee that an officer is unfit to perform the duties of the officer's position/billet, office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, the officer may be separated from the service with severance pay computed under section [10 U.S.C. § 1212](#) if the disability is rated less than 30%.
  - d. The ASH or his/her designee may specify an effective date for the retirement of any officer under 10 U.S.C. Chapter 61, or for the placement of the officer's name on the temporary disability retired list.
- 6-3. Temporary Disability Retired List (TDRL).
- a. If the ASH or his/her designee determines that an officer would be qualified for retirement but for the fact that his disability is not determined to be of a permanent nature and stable, the ASH or his/her designee shall, if it is also determined that

accepted medical principles indicate that the disability may be of a permanent nature, place the officer on TDRL with retired pay.

- b. An officer on TDRL is required to obtain a medical examination 18 months after placement on TDRL to determine whether there has been a change in the disability for which the officer was temporarily retired. In addition, at any other time while on TDRL, the ASH or his/her designee may direct the officer to obtain any other medical examinations that he/she deems appropriate. If an officer fails to report for an examination or fails to ensure that the records of an examination are submitted, his/her disability retired pay may be terminated after proper notice by the Commissioned Corps Headquarters (CCHQ). However, payments to the officer shall be resumed if there was just cause for his/her failure to comply with the requirements of this Subsection. If payments are so resumed, they may be made retroactive for not more than one year.
  - c. The ASH or his/her designee shall make a final determination of the case of each officer who is on TDRL on or before the expiration of three years after the date when the officer was placed on TDRL. If, at the time of that determination, the physical disability for which the officer was carried on TDRL still exists, it shall be considered to be of a permanent nature and stable.
  - d. An officer on TDRL who is required to travel to submit to a medical examination required by the ASH or his/her designee under Section 6-3.b., is entitled to the travel and transportation allowances authorized for members in his/her retired grade traveling in connection with temporary duty while on active duty in accordance with the Joint Travel Regulations (JTR).
  - e. If the officer is not sooner removed from TDRL, the disability retired pay terminates upon the expiration of three years after the date when the officer was placed on TDRL.
  - f. With his/her consent, an officer of the Regular Corps, being recalled to active duty, must meet the conditions of service requirements (see [CCD 111.03](#), "Conditions of Service") and be reappointed by the President, or his/her designee, at the regular grade held by the officer when he/she was placed on TDRL. For purposes of promotion eligibility, the officer's seniority in grade, promotion credit, Training and Experience, time in service, and other dates associated with promotion are offset by the period of time the officer was on TDRL.
- 6-4. Injury as a Result of Misconduct or Willful Neglect. An officer who incurs a physical disability that, in the determination of the ASH or his/her designee, makes the officer unfit to perform the duties of his/her position/billet, office, grade, rank, or rating, and the disability resulted from the officer's intentional misconduct or willful neglect or was incurred during a period of unauthorized absence, the officer shall be separated from the service without entitlement to any benefits.
- 6-5. Ready Reserve Officers Called to Duty for More Than 30 days. A Ready Reserve Corps officer who is ordered to active duty for a period of more than 30 days who is released from active duty within 30 days of commencing such period of active duty for a reason stated below shall be considered for all purposes under this Directive to have been serving under an order to active duty for a period of 30 days or less.
- a. Failure to meet physical standards for retention due to a preexisting condition not aggravated during the period of active duty; or

- b. Failure to meet medical standards for deployment due to a preexisting condition not aggravated during the period of active duty.

6-6. Medical Review Boards (MRB) and Medical Appeals Boards.

- a. Purpose of Boards.

- (1) The ASH or his/her designee, shall convene a MRB as necessary to review the case of any officer who may be entitled to retirement due to medical disability, the case of any officer whose name has been placed on TDRL and who is required to undergo a periodic medical examination, and the case of any officer who, after his/her appointment is required to undergo a medical examination, the results of which indicate a possible medical disqualification for further service.
- (2) An officer who is determined to be not fit for duty by a MRB is entitled to a Full and Fair Hearing by a Medical Appeals Board if requested. The hearing will be conducted in accordance with policy established by the ASH and guidelines established by the ASH or his/her designee.

- b. Composition of Boards

- (1) A MRB shall consist of at least three officers who are licensed health care providers at the O-4 grade or higher with a minimum of five years of service in the Corps. At least one member must be an officer in the Medical category and the majority of the members must be senior officers (O-5 or above).
- (2) Medical Appeals Boards shall consist of at least three senior officers who did not perform the MRB staffing function and are licensed as medical, mental health, or dental (dental officer) providers. At least one member must be a Medical Officer. For cases in which a behavioral health issue is considered to be one of the significant disabling conditions, at least two of the members shall be mental health providers (e.g., psychiatrist, clinical psychologist, licensed clinical social worker, psychiatric nurse practitioner, or psychiatric nurse). The ASH or his/her designee may appoint a PHS representative as a non-voting member to provide policy guidance to the Board.

- c. Powers and Duties of MRB and Medical Appeals Boards.

- (1) Upon a recommendation of either a MRB or Medical Appeals Board, the ASH or his/her designee may require an officer whose case has been referred to the board to undergo further medical examination, to answer any questions, or produce any documents pertinent to the officer's health history or the officer's activities at the time when the alleged disability arose or was aggravated. Upon the conclusion of its examination and deliberation, the board shall report its findings and recommendations to the ASH or his/her designee.
- (2) The ASH or his/her designee shall ensure, in the case of any officer appearing before either a MRB or Medical Appeals Board, that documents announcing a decision of the board in the case convey the findings and conclusions of the board in an orderly and itemized fashion with specific attention to each issue presented by the officer in regard to that officer's case. This requirement applies to a case both during initial consideration

and upon subsequent consideration due to appeal by the officer or other circumstance.

- d. Liaison Officer to Boards. The ASH or his/her designee shall:
- (1) Make available to officers appearing before either a MRB or Medical Appeals Board a designated Liaison Officer to provide advice, counsel, and general information regarding the operation of the board.
  - (2) Establish standards and guidelines concerning the training of such Liaison Officers that include:
    - (a) Assignment and training of staff;
    - (b) Operating procedures; and
    - (c) Timeliness of board decisions.
  - (3) Require training on standards and guidelines for Liaison Officers at least once every three years.
- e. Action by the ASH or his/her designee. Upon receipt of a report and recommendation from either a MRB or Medical Appeals Board, the ASH or his/her designee may:
- (1) Concur with the board's findings;
  - (2) Return the report to the board for further investigation and recommendation;
  - (3) Dissolve the board and appoint a new board to complete the investigation; or
  - (4) Appoint a new board to reinvestigate the case.

6-7. Involuntary Administrative Separation Due to Unsuitability.

- a. Based on documented allegations, reports, or other circumstances that are unrelated to an impairment or disability that the ASH, or his/her designee, has reason to believe renders an officer unsuitable for continued service, the ASH, or his/her designee, may refer an officer who has been determined by either a MRB or Medical Appeals Board to be fit for duty to an appropriate administrative separation process (i.e., Probationary Period, 3-Year File Review, Involuntary Termination Board (ITB), Board of Inquiry (BOI), or Involuntary Retirement Board).
- b. An officer who has been determined by either a MRB or Medical Appeals Board to be fit for duty may not be involuntarily separated based on a determination that the officer is unsuitable for deployment or worldwide assignment based on the same medical condition considered by a MRB or Medical Appeals Board, except as follows:
- (1) The ASH or his/her designee may direct the MRB or Medical Appeals Board to reevaluate any officer who the MRB or Medical Appeals Board found fit for duty, if the ASH or his/her designee has reason to believe that a medical condition of the officer considered by the board during the

evaluation of the officer renders the officer unsuitable for continued service based on the medical condition.

- (2) An officer determined, pursuant to reevaluation under Section 6-7.b.(1), to be unfit to perform the duties of the officer's position/billet, grade, rank, or rating may be retired or separated for physical disability.
- (3) The ASH or his/her designee shall be the final approval authority for any case determined by the ASH or his/her designee to warrant administrative separation based on a determination that the officer is unsuitable for continued service due to the same medical condition of the officer considered by either the MRB or Medical Appeals Board that found the officer fit for duty.

6-8. To ensure that the Corps can meet its deployment missions under 42 U.S.C. § 204a, and any military missions under 42 U.S.C. § 217, candidates and active-duty officers, must be medically qualified to complete readiness requirements, to deploy worldwide in response to urgent or emergency public health care needs and/or military missions, and any other readiness requirements established by the ASH. However, pursuant to 42 U.S.C. § 204a(a)(4)(B), the ASH may establish deployment readiness requirements including training and/or medical examination standards, which the ASH or his/her designee may waive because of:

- a. A medical condition incurred after an officer has been appointed to the Ready Reserve Corps or Regular Corps. However, a disability may be waived for no more than one year if either a MRB or Medical Appeals Board finds the officer fit for limited duty.
- b. A temporary medical condition, with the exception that the ASH or designee may not waive a temporary medical condition for a candidate for appointment in the Ready Reserve Corps or Regular Corps.
- c. Any other extraordinary limitation as determined by the ASH, without further delegation, after an officer has been appointed to the Ready Reserve Corps or Regular Corps.

Note: A condition waived for the purposes of this Section may not be automatically waived for the reappointment of an officer nor for an original appointment to the Regular Corps. Such conditions must be evaluated by the applicable medical accession standards in accordance with policy issued by the ASH.

## 7. RESPONSIBILITIES:

- 7-1. The ASH is responsible for establishing policies related to medical accession and medical readiness standards, Medical Review Boards, Medical Appeal Boards, and deployment readiness, to include waivers under 42 U.S.C. § 204(a) and Section 6-8.
- 7-2. The ASH may establish any policies necessary to implement this directive, and provide guidance to the Surgeon General (SG) who is responsible for assuring the day-to-day management of the Corps.
- 7-3. All officers are responsible for adhering to the guidelines and procedures listed in this Directive as well as any policy issued by the ASH and guidance issued by the SG.

8. HISTORICAL NOTES: This is the second issuance of this Directive in eCCIS.
  - 8-1. CCD 128.01, "Medical Fitness for Duty," dated 7 June 2019.
  - 8-2. CCPM CC49.3.1, "Medical Review Boards," dated 12 July 2000.