

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

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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 the powers and duties of such boards.

Section B. Authority

Sec. 215, 58 Stat. 690, as amended; 42 U. S. C. 216 authorizes the Secretary to administer the Commissioned Corps of the Public Health Service (PHS).

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 C. Composition of Medical Review Boards and
Medical Appeals Boards

Medical Review Boards shall consist of three senior grade officers (O-5 and above), at least one of whom shall be a medical officer. Medical Appeals Boards shall consist of three or more medical officers who did not perform the Medical Review Board staffing function, nor 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. Purpose of the Boards

The Surgeon General (SG) shall appoint Medical Review Boards as necessary to review the case of any officer who may be entitled to retirement due to physical disability, the case of any officer whose name has been placed on the temporary disability retirement list and who is required to undergo a periodic physical examination, and the case of any officer who, after his appointment in the regular corps, or call to active duty in the reserve corps, is required to undergo a physical examination, the results of which indicate a possible physical disqualification for further service.

In addition, the SG may refer the following case(s) to a Medical Review Board: (1) the case of any candidate being considered for original appointment to either the regular corps or the reserve corps, (2) the case of any officer of the reserve corps being considered for reappointment, call to active duty, or continued active duty, (3) the case of any officer of the reserve corps, who having been reappointed without taking a physical examination is subsequently physically examined pursuant to 42 CFR 21.58, and (4) the case of any officer of the regular corps being considered for promotion, in which questions exist concerning the physical qualification of such a candidate or officer for appointment, reappointment, call to active duty, continued active duty, or promotion.

Medical Appeals Boards shall 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. Powers and Duties of Medical Review and Appeal Boards

A board may require an officer whose case has been referred to the board to undergo such further physical examination as it may direct, and to appear before the board and answer any questions, or produce any documents pertinent to his/her 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 SG.

Section F. Action by the Surgeon General

Upon receipt of a report and recommendation from a Medical Review or Appeals Board, the SG 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. Upon receipt of a final report/recommendation from a Medical Review Board or Appeals Board, the SG shall consider the report/recommendation in determining what action should be taken.