

DISABILITY RETIREMENT: PERAC'S COMPLETE GUIDE TO THE PROCESS

Commonwealth of Massachusetts

Public Employee Retirement Administration Commission

The Honorable Domenic J. F. Russo, *Chairman*

The Honorable A. Joseph DeNucci, *Vice Chairman*

The Honorable Deval Patrick

The Honorable Paul V. Doane

James M. Machado

Donald R. Marquis

Robert B. McCarthy

Joseph E. Connarton, *Executive Director*

PERAC | Five Middlesex Avenue, Suite 304, Somerville, MA 02145

ph 617 666 4446 | fax 617 628 4002 | tty 617 591 8917 | web www.mass.gov/perac

LETTER FROM THE EXECUTIVE DIRECTOR

I am pleased, on behalf of the Commission, to provide you with our manual entitled *Disability Retirement: PERAC's Complete Guide to the Process*. As you will readily note, this is a newly updated guide developed to assist board members and administrators in dealing with a member seeking ordinary or accidental disability.

It is our hope that you will find this manual useful going forward. This is provided to you as part of the Commission's on-going effort to assist the boards in the uniform implementation of Chapter 32, the Massachusetts retirement law.

We welcome any comments or suggestions you may offer.

Sincerely yours,

A handwritten signature in cursive script that reads "Joseph E. Connarton".

Joseph E. Connarton, *Executive Director*

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When a Retirement Board Denies the Application for Disability Retirement

The member's retirement board must notify all parties of denial by mailing them a *Notice of Retirement Board Action on Disability Retirement Application*.

Please note the *Notice of Retirement Board Action on Disability Retirement* contains information about the member's right to appeal the decision.

When PERAC Approves the Disability Application

PERAC's Executive Director signs the *Disability Transmittal to the Commission* and returns the form to the member's retirement board within 30 days of its receipt.

The member's retirement board submits disability retirement allowance calculation sheets, annuity card, birth certificates of any dependent children, and proof of physical incapacity of any child, if relevant, to PERAC.

When PERAC Remands the Disability Application to a Retirement Board

PERAC sends a letter of remand to the member's retirement board. The member receives a copy of the letter of remand.

The member's retirement board may deny the *Member's Application for Disability Retirement* or resubmit it to PERAC with additional information.

If the board denies the *Member's Application for Disability Retirement*, the member's retirement board must notify all parties of the denial by mailing them a *Notice of Retirement Board Action on Disability Retirement Application*.

Presumptions

Certain conditions are presumed to be job-related if suffered by persons holding certain public safety positions. Additional information about these presumptions is available from the Public Employee Retirement Administration Commission. The presumptions are:

Heart Law (G.L. c. 32, § 94)

A disability or death caused by heart disease or hypertension is presumed to be suffered in the line of duty for public safety positions, including certain fire fighters, police officers, corrections officers, and public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

Lung Law (G.L. c. 32, § 94A)

A disability or death caused by diseases of the lungs or respiratory tract is presumed to be suffered

in the line of duty as a result of inhalation of noxious fumes or poisonous gas for certain fire fighters or public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

Cancer Presumption (G.L. c. 32, § 94B)

A disability or death caused by certain cancers is presumed to be suffered in the line of duty as a result of exposure to heat, radiant, or a known or suspected carcinogen for certain fire fighters or public safety employees at the international airport. The employee (or retiree) must have been employed in an eligible position on or after July 5, 1990, must have served in such a position for five years or more at the time such condition is or should have been discovered, must have regularly responded to fires during some portion of his/her service, and must discover such cancer within five years of the last date of his/her active service. A retired firefighter or a public safety employee at the international airport where such condition is or should have been discovered within five years of retirement may be eligible for this presumption. The presumption can be rebutted by a preponderance of the evidence that shows that the disability was caused by non-service-related risk factors or accidents or hazards undergone.

Risk of Re-injury

The Contributory Retirement Appeal Board (CRAB) has found, “even if a member is physically capable of performing all of the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk to serious harm to the member or third parties.” This risk of re-injury has to reasonably be expected to involve a substantial harm.

Involuntary Disability Retirement

A department head/employer may file an *Involuntary Retirement Application* to retire a public employee upon the basis of disability (or superannuation). The minimum creditable service and age requirements that apply to applications filed by members are also applied to those members whose retirement proceedings are initiated by their employer.

The department head/employer will submit to the member’s retirement board:

1. An *Involuntary Retirement Application*, and
2. The *Employer’s Statement Pertaining to a Member’s Application for Disability Retirement* (obtained from the member’s employer), including:
 - A copy of the member’s current official job description with identification of essential duties, and
 - All records of pre-employment physicals, or any statement regarding member’s physical condition at time of hire, and

Involuntary Disability Retirement (*cont.*)

- All records concerning the member's physical condition after being employed, and
 - All records pertaining to the member's education, qualifications, or certifications, and
 - Copies of all injury reports and any reports of investigations of incidents or hazards involving the member, and
 - Copies of all Workers' Compensation incident reports or settlement agreements, and
 - All reports associated with the member's G.L. c. 41, § 111F benefits.
3. Notice of delivery of copy of *Involuntary Retirement Application* to the member, including the certified mail receipt.

The department head/employer will send to the member, via certified mail:

1. A copy of the *Involuntary Retirement Application*
2. A brief statement of the member's Retirement Options (see back of *Application*)
3. A statement of the member's rights to a hearing and review (see interior section of *Application*)

The retirement board should forward to PERAC:

1. *A Request For Appointment of a Regional Medical Panel*

PERAC will:

Process this *Request for Appointment of a Regional Medical Panel* in the same manner as it processes one associated with a *Member's Application for Disability Retirement* (application voluntarily filed by member), provided that the member is not entitled to an initial hearing and/or the member's retirement board accepts the appropriateness of the application.

Posthumous Medical Panel

If a member, who dies before being examined by a regional medical panel, lived at least 15 days after submitting a completed application for ordinary disability retirement, PERAC may appoint a regional medical panel to review the member's medical records and to complete a *Regional Medical Panel Certificate* and narrative report regarding the member's application for ordinary disability retirement.

The retirement board should forward to PERAC:

1. *A Request for Appointment of a Regional Medical Panel*
2. *Physician's Statement*

PERAC will:

1. Schedule a regional medical panel to conduct a review of records.
2. Notify the member's retirement board about the date and time scheduled for the review of records.
3. Send a copy of the *Regional Medical Panel Certificate* and narrative report completed by the regional medical panel to the member's retirement board.

Submission of Records

In accordance with PERAC guidelines, the requirement that a member attend a regional medical panel examination can be satisfied by the submission of records to be reviewed by three physicians appointed by PERAC, provided the following conditions are met:

- The application submitted must be a *Member's Application for Disability Retirement*, the voluntary disability retirement application filed by a member. A review of records cannot be based upon an *Involuntary Retirement Application*, filed by an employer.
- The completed application must be on file with the member's retirement board for at least fifteen days prior to the retirement board filing a *Request for Appointment of a Regional Medical Panel* with PERAC.
- The member must waive his/her right to attend the examination in writing.
- The member's employer must waive his/her right to attend the examination in writing.
- The member's physician must provide a statement detailing the medical reasons that prevent the member from traveling to the examination. This statement must be accompanied by supporting medical documentation.

Accidental Death

If a retired member dies as a result of the condition for which he/she retired, his/her surviving spouse may apply for Accidental Death Benefits under Section 9.

The retirement board will:

1. Obtain all pertinent medical information.
2. Obtain the death certificate.
3. At this point the board has the following choices:
 - Render a decision after reviewing the medical records
 - Render a decision after seeking the advice of an independent physician of the board's choice
 - Send PERAC a *Request for a Regional Medical Panel (Accidental Death)* and a copy of the death certificate. PERAC will schedule a review of the information by a single physician.

Upon the retirement board's request, PERAC will:

1. Schedule a single physician to conduct a review of records.
2. Notify the member's retirement board of the date and time scheduled for the review of records.

The retirement board will:

Submit the member's medical records to the single physician.

PERAC will:

Send a copy of the report completed by the single physician to the retirement board.

Disability Application: Glossary of Terms (Updated April 2009)

Aggravation of a Pre-existing Condition Standard

You may receive a disability retirement allowance if an injury worsens a medical condition from which you already suffered. Your doctor and the Regional Medical Panel are required to use this standard in reaching their conclusion as to whether your injury has worsened an existing medical condition.

Accidental Disability

An accidental disability is a type of retirement for which a retirement allowance may be paid to members who are permanently and totally disabled from performing the essential duties of their position because of a job-related injury or exposure to a job-related hazard. Eligibility for an accidental disability is defined by G.L. c. 32, § 7.

Applicant

The individual who seeks to retire and receive a disability retirement allowance or, if an involuntary retirement, the employer.

Attorney

If you have a lawyer to assist you with this application, please provide his or her name, address and phone number so we may contact him(her) as needed.

Authorization for Release of Insurance Records

As part of your disability application, you are required to sign a release form to give your retirement board authority to collect insurance records from your insurer. You must also list all insurance policies and their policy number, if known, on the application. Your insurance agent may be able to assist you with obtaining this information.

Authorization for Release of Medical Records

As part of your disability application, you are required to sign a release form to give your retirement board authority to collect medical records from any doctor or medical facility from which you have received treatment. You must also list all doctors and medical facilities from which you have received care on the application.

Authorization for Release of Tax Record

As part of your disability application, you are required to sign a release form to give your retirement board and PERAC authority to obtain your tax information from the Massachusetts Department of Revenue and federal Internal Revenue Service.

Code of Massachusetts Regulations (CMR)

Many of the rules concerning disability applications are contained in these regulations written by PERAC and approved by the Massachusetts Legislature. The disability regulations are found at 840 CMR 10.00.

Contributory Retirement Appeal Board

This is the board to which a member who is aggrieved by an action or failure to act of a retirement board or PERAC can appeal. The Contributory Retirement Appeal Board will assign the appeal to the Division of Administrative Law Appeals for a hearing. If you wish to appeal a decision of your retirement board or PERAC, your retirement board will assist you in filing an appeal.

Date of Application

This is the date your retirement board assigns when your application is complete. This date is important in determining the effective date of your retirement and your retirement allowance date, which is the date from when you are due benefits. Your retirement board will set your date of application when it receives your completed *Member's Application for Disability Retirement*, including the signed *Authorizations* and *Regional Medical Panel Selection Form*, and your *Physician's Statement*. A delay in your retirement board receiving the *Employer's Statement* or medical records will not prevent it from setting a date of application. However, your board cannot begin processing your application until all required documents have been received.

Emergency Medical Treatment

This is the initial care you received for an injury sustained or hazard undergone that was provided by any physician, nurse, emergency medical technician or other health care provider.

Employer's Statement

As a part of your disability application, your department head or immediate supervisor will be asked to file a statement which requests information concerning your position, essential duties and injuries. This statement becomes a part of your application and is considered by your retirement board, PERAC and the Regional Medical Panel that may examine you in connection with this application.

Essential Duties

In order to receive a disability retirement allowance, a member must be permanently and totally disabled from performing the essential duties of their position. Essential duties are those duties or functions of a job or position which must necessarily be performed by an employee to accomplish the principal object(s) of the job or position. The essential duties are those that bear more than a marginal relationship to the position. The determination of which duties are essential is made by the employer based on all relevant facts and circumstances and after considering a number of factors.

Grievance

If you are covered by a union contract, you might have filed an official complaint, or grievance, with your union representative. This may be relevant to your disability application and should be noted on your application.

Group 1, 2, 3, 4

Each public employee's position is assigned to one group based upon its position title or duties. Retirement benefits differ between each group.

Presumptions

Certain conditions are presumed to be job-related if suffered by persons holding certain public safety positions. Additional information about these presumptions is available from the Public Employee Retirement Administration Commission. The presumptions are:

- **Heart Law (G.L. c. 32, § 94)**

A disability or death caused by heart disease or hypertension is presumed to be suffered in the line of duty for public safety positions, including certain fire fighters, police officers, corrections officers, and public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

- **Lung Law (G.L. c. 32, § 94A)**

A disability or death caused by diseases of the lungs or respiratory tract is presumed to be suffered in the line of duty as a result of inhalation of noxious fumes or poisonous gas for certain fire fighters or public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

- **Cancer Presumption (G.L. c. 32, § 94B)**

A disability or death caused by certain cancers is presumed to be suffered in the line of duty as a result of exposure to heat, radiant, or a known or suspected carcinogen for certain fire fighters or public safety employees at the international airport. The employee (or retiree) must have been employed in an eligible position on or after July 5, 1990, must have served in such a position for five years or more at the time such condition is or should have been discovered, must have regularly responded to fires during some portion of his/her service, and must discover such cancer within five years of the last date of his/her active service. A retired firefighter or a public safety employee at the international airport where such condition is or should have been discovered within five years of retirement may be eligible for this presumption. The presumption can be rebutted by a preponderance of the evidence which shows that the disability was caused by non-service-related risk factors or accidents or hazards undergone.

Primary Treating Physician

This is the doctor who gave you the most complete care or who supervised the care for your injury. This doctor will be asked to fill out the Physician's Statement.

Public Employee Retirement Administration Commission (PERAC)

PERAC is the oversight agency for the 106 retirement systems in Massachusetts. PERAC must approve every disability application before it becomes effective. Your retirement board will forward your application to PERAC if and when it votes to approve your application.

Regional Medical Panel

A three-member panel of independent doctors who specialize in the area of medicine related to the injury for which you seek to retire. If your application is processed, a Regional Medical Panel will be appointed by PERAC and may examine you as a group or separately to determine if you are permanently and totally disabled from your position and, if you are applying for accidental disability, whether your injury is job-related. In addition to the panel physicians, the following people may attend the examination(s): your physician, your attorney, your employer or their representative, your employer's physician, your employer's attorney and a person of your choosing.

Regional Medical Panel Selection Form

On this form, which is part of your disability application, you choose whether you wish to be examined by three independent physicians during one appointment or separately by each doctor in three appointments, if you are sent for a Regional Medical Panel evaluation.

Risk of Re-injury

The Contributory Retirement Appeal Board (CRAB) has found, "even if a member is physically capable of performing all of the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk to serious harm to the member or third parties." This risk of re-injury has to reasonably be expected to involve a substantial harm.

Witnesses

A witness is another person who saw the injury that you suffered or is aware of the hazard you underwent. That person's name and other information concerning any witnesses should be listed on the Disability Application to allow your retirement board to contact them if necessary.

Workers' Compensation

These are benefits for job-related injuries paid under G.L. c. 152. These benefits may be paid weekly or in one sum as part of a lump sum settlement. These benefits are offset against a disability retirement allowance.

Treating Physician's Statement Pertaining to a Member's Application For Disability Retirement

Treating Physician's Statement Pertaining to a Member's Application for Disability Retirement

Updated March 2009

Who should complete this form?

In accordance with 840 CMR 10.06 (1) (b) (Code of Massachusetts Regulations), every member-applicant shall file a certificate from a licensed medical doctor.

Who will ask the physician to complete this form?

In the disability retirement application that an applicant submits to his/her retirement board, the applicant will identify the name, address, and phone number of the physician who has provided the care for his/her disability. The retirement board will send a copy of the Physician's Statement to the physician and request that the form be completed and returned to the retirement board.

Some applicants may choose to submit the Physician's Statement directly to their physician. Applicants should be sure to include the name, address, and phone number of their retirement board on the statement, if they take this course of action.

In order to avoid duplication of effort and confusion, if an applicant does submit the Physician's Statement directly to his/her physician, the applicant should be sure to inform his/her retirement board.

What is the process associated with this form?

A disability retirement application will not be considered complete until the completed Physician's Statement has been received by the applicant's retirement board. Delays in filing any of the required materials will impede timely processing of the application.

Are there terms particular to the legislative or legal process of disability retirement that the physician should consider when completing the Physician's Statement?

Yes, please review the last two pages of the Physician's Statement. Definitions are included there for: Accidental Disability; Aggravation of a Pre-Existing Condition; Ordinary Disability; Permanency Standard; Presumptions: Heart Law, Lung Law, and Cancer; and Risk of Re-injury.

Who should a primary treating physician contact if she or he has questions about this form?

If a primary treating physician needs further explanation about this form or the disability process in general, the physician should contact the applicant's retirement board.

Treating Physician's Statement Pertaining to a Member's Application for Disability Retirement

Updated March 2009

Retirement Board: Please place your address and phone number here. ▶

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Applicant's Last Name	First	M.I.	Name of Applicant's Retirement Board
<input type="text"/>			<input type="text"/>
Street Address of Applicant's Retirement Board			Applicant's Social Security Number
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
City	State	Zip	Retirement Board Phone #

Type of Claimed Disability (please check one)

Accidental Ordinary Both Accidental and Ordinary

Note to Physician

As a physician who has been treating the above named applicant for his or her claimed disability, the retirement board will consider your analysis of the applicant's medical condition. Attention to this document will help you translate medical findings and opinions into language consistent with Massachusetts law, which in turn will help your patient with the process.

The Questions

You are asked to answer yes or no to questions (1) and (2) if the applicant is filing for an ordinary disability; yes or no to questions (1), (2), and (3A) if the applicant is filing for accidental disability without a presumption; and yes or no to questions (1), (2), and (3B) if the applicant is filing for accidental disability under a presumption.

Applications for Accidental Disability under a Presumption

The treating physician(s) submitting this form for a member who is applying for accidental disability benefits under a presumption should note that certain conditions are presumed to be job-related if suffered by persons holding certain public safety positions. The treating physician should be aware that a higher level of certainty (higher than what a doctor typically refers to, i.e., reasonable degree of medical certainty) will be required to overcome or rebut a presumption. Hence, overcoming a presumption is uncommon and requires a uniquely predominate non-work related influence.

The presumptions are cited in G.L. c. 32, §§94, 94A, 94B; they are the Heart, Lung, and Cancer Presumptions. Please review the definitions for these presumptions on Page 5 and 6 before completing this form.

Manner of Submission

You may either complete the narrative section of this report by handwriting your responses or submitting a narrative utilizing the items listed as your template. Your office notes and test results may be attached to further substantiate your conclusions.

Treating Physician's Statement, Disability Retirement Application

Applicant's Last Name

First

M.I.

Social Security Number

(1.) Is the applicant mentally or physically incapable of performing the essential duties of his or her particular job? **YES** **NO**

Applicant's Date(s) of injury(s) or exposure(s):

Applicant's Job Title:

Job duties were reviewed? Yes No

Applicant able to perform essential duties? Yes No

If no, when was the applicant last able to perform essential duties?

Which essential duties cannot be performed by the applicant (restrictions)?

(2.) Is the condition for which the applicant seeks disability retirement likely to be permanent?

YES **NO** (Please refer to the attached Permanency Standard.)

What are the applicant's medical diagnoses?:

Please list key tests or imaging or other data confirming diagnoses:

Has the condition(s) changed over-time?

In the past 3 months? Yes No (If yes, please describe how.)

In the past year? Yes No (If yes, please describe how.)

Non-surgical therapeutic interventions and outcomes:

Medications:

PT:

Chiropractic:

Other:

Treating Physician's Statement, Disability Retirement Application

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Applicant's Last Name	First	M.I.	Social Security Number

Surgical interventions and outcomes:

Type of Surgery	Date (mm/dd/yyyy)	Outcome
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Your assessment of anticipated natural course of the diagnoses?

Stable or plateau Likely to regress Likely to resolve

Has Maximum Medical Improvement (MMI) been reached? Yes No

If you think the applicant's disability will continue indefinitely, please state why:

Complete (3A) if the member is filing an application for accidental disability without a presumption. If the member is filing under a presumption, only complete (3B) below.

(3A) Is said incapacity such as might be the natural and proximate result of the claimed personal injury sustained or hazard undergone in the performance of the applicant's duties and on account of which this disability retirement is based? YES NO

Describe the event(s) or onset of condition(s) that in your opinion led to applicant's disability:

What other life event/circumstance/condition in the applicant's medical history may have contributed to or resulted in the disability claimed?

Upon weighing the medical influence described, is it more likely that the disability was caused by the job-related personal injury or hazard undergone, or the non-work related event or circumstance or condition?

Treating Physician's Statement, Disability Retirement Application

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Applicant's Last Name	First	M.I.	Social Security Number

Complete (3B) if the member is filing an application for accidental disability under a presumption.

A presumption can be rebutted only by documentation of a uniquely predominant influence that shows the disability is not job-related.

(3B) For this particular applicant, is there no evidence of a uniquely predominant non-service connected influence on his/her mental or physical condition and/or a non-service connected accident or hazard which caused his/her incapacity? If there is no evidence of such influence, then you must answer yes. If there is evidence of such influence, you must answer no. YES NO

If you answer No to (3B), please explain the uniquely predominant influence which brings you to this conclusion.

I, the undersigned physician, understand that has applied for disability retirement pursuant to the provisions of Massachusetts General Laws, Chapter 32. I have conducted a physical examination and have knowledge of the pertinent facts of his/her case as described. I certify that I have read and understand the information contained in this statement, and subscribe, under the penalties of perjury, that the information I have supplied in this statement and in my medical reports (if applicable) is true, complete, and correct to the best of my knowledge.

I am certified to practice medicine in (state(s))

My Medical License Number is Date Issued (mm/dd/yyyy)

My license was issued by (state)

Physician's Name (print)

Physician's Signature _____ Date _____

Physician's Medical Specialty

Physician's Street Address

City State Zip

Physician's Phone Number Physician's Fax Number

Definition of Terms

Accidental Disability

In an application for Accidental Disability Retirement, an applicant asserts that his or her disability is the result of a job-related incident or injury. For such applications, your responses to Questions 1, 2, and 3 are required.

Aggravation of a Pre-Existing Condition

You may find that a previous condition or injury is related to the condition or injury that is the basis of the disability application. If the acceleration of a pre-existing condition or injury is as a result of an accident or hazard undergone, in performance of the applicant's duties, causation would be established. However, if the disability is due to the natural progression of the pre-existing condition or was not aggravated by the alleged injury sustained or hazard undergone, causation would not be established.

Ordinary Disability

In an application for Ordinary Disability Retirement, an applicant does not assert that his or her disability is the result of a job-related incident or injury. For such applications, your response to Question 3 is not necessary. But please note that you may also respond to Question 3, if your determination is that consideration of causality is appropriate even though the applicant has not applied for accidental disability retirement.

Permanency Standard

A disability is permanent if it will continue for an indefinite period of time that is likely to never end even though recovery at some remote, unknown time is possible. If you are unable to determine when the applicant will no longer be disabled, you must consider the disability to be permanent. However, if the recovery is reasonably certain after a fairly definite time, the disability cannot be classified as permanent. It is imperative that the physician makes his/her determination based on the actual examination of the applicant and other available medical tests or medical records that have been provided. It is not the physician's task to look into employment possibilities that may become available to an applicant at some future point in time.

Presumptions

Certain conditions are presumed to be job-related if suffered by persons holding certain public safety positions. Additional information about these presumptions is available from the Public Employee Retirement Administration Commission. The presumptions are:

Heart Law (G.L. c. 32, § 94)

A disability or death caused by heart disease or hypertension is presumed to be suffered in the line of duty for public safety positions, including certain fire fighters, police officers, corrections officers, and public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

Lung Law (G.L. c. 32, § 94A)

A disability or death caused by diseases of the lungs or respiratory tract is presumed to be suffered in the line of duty as a result of inhalation of noxious fumes or poisonous gas for certain fire fighters or public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

Cancer Presumption (G.L. c. 32, § 94B)

A disability or death caused by certain cancers is presumed to be suffered in the line of duty as a result of exposure to heat, radiant, or a known or suspected carcinogen for certain fire fighters or public safety employees at the international airport. The employee (or retiree) must have been employed in an eligible position on or after July 5, 1990, must have served in such a position for five years or more at the time such condition is or should have been discovered, must have regularly responded to fires during some portion of his/her service, and must discover such cancer within five years of the last date of his/her active service. A retired firefighter or a public safety employee at the international airport where such condition is or should have been discovered within five years of retirement may be eligible for this presumption. The presumption can be rebutted by a preponderance of the evidence that shows that the disability was caused by non-service-related risk factors or accidents or hazards undergone.

Risk of Re-injury

The Contributory Retirement Appeal Board (CRAB) has found, "even if a member is physically capable of performing all of the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk to serious harm to the member or third parties." This risk of re-injury has to reasonably be expected to involve a substantial harm.

**Addendum Sheet
to the
Treating Physician's Statement**

Please use this sheet to provide further information in the event that you find the space provided on the form to be insufficient. Please identify the question(s), by Page Number and Question Number, for which you are providing further information.

Regional Medical Panel Packet

revised: April 2009



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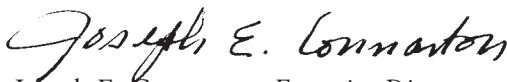
STATEMENT FROM THE EXECUTIVE DIRECTOR

Pursuant to Massachusetts General Laws, Chapter 32, sections 6 and 7, the Public Employee Retirement Administration Commission (PERAC) is responsible for appointing a regional medical panel to evaluate the physical and/or mental condition of a member seeking a Disability Retirement allowance. With PERAC's prior approval, the regional medical panel may conduct non-invasive tests, before rendering a final determination.

The medical panel's certificate and narrative report are to be considered as evidence by the retirement board. Therefore, in order to allow the board to understand your responses to the questions, the report should conform to the PERAC format and fully support the certificate responses. It should be clear, concise, and consistent.

Please note this packet of forms and instructions reflects changes as of March, 2001. Please take the time to review it thoroughly. The packet contains the Regional Medical Panel Certificate. This certificate is used for applicants for both Ordinary and Accidental Disability Retirement. If the applicant is applying for Accidental Disability, the certificates related to the heart, lung, or cancer presumptions may also be enclosed along with guides to the application of these presumptions. Instructions for formatting your narrative are also included.

PERAC's Medical Panel Unit staff members are available to respond to your questions. You may reach this unit by calling 617-591-8956.


Joseph E. Connarton, *Executive Director*

Ordinary Disability

For an application for Ordinary Disability Retirement (a disability not alleged to be the result of a job related incident or injury), medical panel physicians are responsible for answering Questions #1 and #2 of the **Regional Medical Panel Certificate**. If the medical panel physicians perceive that the member's claimed disability is related to a job-related incident or injury, the medical panel physicians should address causality in their narrative report.

The **Certification of Medical Panel Findings** must be signed by the panel physicians, as well as the applicant's and/or employer's physician, if present at the examination.

A physician who dissents from a joint medical panel must complete a **Medical Panel Certificate Minority Report** and file a separate narrative report.

Accidental Disability

For an application for Accidental Disability Retirement (a disability alleged by the member to be the result of a job-related incident or injury, including those covered by the so-called Heart, Lung, and Cancer laws), the panel is responsible for answering Questions #1, #2, and #3 of the **Regional Medical Panel Certificate**.

The **Certification of Medical Panel Findings** must be signed by the panel physicians, as well as the applicant's and/or employer's physician, if they are present at the examination.

A physician who dissents from a joint medical panel must complete a **Medical Panel Certificate Minority Report** and file a separate narrative report.

There are a variety of **Certificates for Accidental Disability**: Accidental Disability Certificate (no presumption), Accidental Heart Presumption Certificate, Accidental Lung Presumption Certificate, or Accidental Cancer Presumption Certificate. One of these certificates will be included in your packet. A color-coded sheet is attached to each presumption certificate that explains the presumption and delineates the steps that must be used to properly apply the presumption.

If your response to Question #1 on the Regional Medical Panel Certificate is yes, you must respond to Question #2 and #3 on the Certificate for Accidental Disability.

Documents Provided for Your Review

1. Applicant Information
2. Regional Medical Panel Certificate and Certification of Medical Panel Findings
3. Accidental Disability Presumption Certificate, if appropriate.
4. The member's medical records *
5. The current job description, including essential duties, for the position from which the member is seeking to retire *
6. Payment Invoice

* Furnished by the applicant's retirement board

Representation at a Regional Medical Panel Examination

The member may be accompanied by his/her attorney and personal physician. The member's employer, and the employer's physician and attorney may also be present. The member may permit the presence of other individuals, provided their presence does not disrupt the examination.

Photo Identification

Before evaluating the member, please obtain a copy of his/her photo identification (driver's license). Please retain a copy of the photo for your records.

Submission of Materials to PERAC

Please submit the completed Medical Panel Certificate, narrative report, voucher, and a copy of the member's photo identification to PERAC within 60 days of examining the member so that payment can be rendered promptly.

Confidentiality of Medical Panel Results

An applicant's medical information is considered to be confidential. There are no circumstances under which the completed certificate and narrative report should be sent to any party other than PERAC.

Documents Submitted to the Medical Panel

840 cmr 10.10 (8) Any documents that are submitted to the medical panel by anyone other than the retirement board will be transmitted to the Commission by the panel. The Commission will provide copies of the documents to the retirement board.

A written report that supports the medical basis for the conclusions that you reach must be furnished. **When a joint medical panel has been conducted, all three physicians must sign this report.** A physician who dissents from a joint medical panel must complete and file a separate narrative report. Narrative reports must be organized in the manner described below.

Report Introduction

1. At the beginning of your Report, it is important to include:

- A. The name of the applicant who was examined, and the applicant's PERAC Number
- B. The date upon which the examination was conducted
- C. The time the examination began and ended
- D. Names of all individuals in attendance at the examination

Report Main Text

Your examination of the applicant should cover all body systems, and your report should reflect a discussion of each of the following categories in the order indicated:

1. History of the applicant's illness or condition

Include a description of injury or hazard undergone.

(Continued on next page)

2. Current symptoms

Describe the applicant's current symptoms.

3. Applicant's past medical history

Include operative procedures, hospitalization, medications, allergies, etc.

4. Medical record review

When conducting your examination and reporting your findings, consider all of the following:

- A. Physician Reports/Office Notes/Consultations
- B. Hospital Records/Laboratory Reports
- C. Imaging Studies/Stress Tests

5. Physical examination

- A. Weight, height, blood pressure, pulse, etc.
- B. Review body systems related to injury or hazard undergone.

6. Relevant personal and family history

7. Diagnoses

In addition to your diagnosis, you may comment upon diagnoses included in the member's medical records.

8. Prognosis

9. Conclusion

Your findings should be supported by objective evidence such as laboratory results, x-rays, etc. The more complete a discussion, the more beneficial your report will be. Your discussion must support responses to Certificate Questions:

- A. Inability to perform essential duties of job.
- B. Permanence (consider Permanency Standard on Regional Medical Panel Certificate).
- C. Causality (consider Aggravation Standard on Accidental Certificate).

Risk of Re-injury

Please note that the Contributory Retirement Appeal Board (CRAB) has found, "even if a member is physically capable of performing all of the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk to serious harm to the member or third parties." This risk of re-injury has to reasonably be expected to involve a substantial harm.

Comprehensive Medical Evaluation

Physician's Packet revised: 4.2009



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PH: 617 591 8956 | TTY: 617 591 8917 | WEB: WWW.MASS.GOV/PERAC

STATEMENT FROM THE EXECUTIVE DIRECTOR

Dear Physician:

Pursuant to Massachusetts General Laws, Chapter 32, section 8, any member retired for accidental or ordinary disability is required to participate in an evaluation to determine whether he or she is able to perform the essential duties of the position from which he/she retired, or a similar job within the same department for which he or she is qualified, or whether the member's return to his/her former position or a similar job is likely to be expedited by participation in a medical or vocational rehabilitation program.

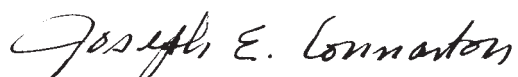
In accordance with this statute, the Public Employee Retirement Administration Commission (PERAC) schedules all comprehensive medical evaluations of disabled retirees. Evaluations can take place once per year during the first two years after a member's retirement, once every three years thereafter, and upon PERAC's receipt of a written request from a disabled retiree.

PERAC asks members who are being evaluated and their retirement boards to forward to PERAC all medical records containing information about examinations, tests and studies performed since the member's disability retirement became effective. PERAC reviews the information received in response to this request.

A retiree may be excused from an examination if PERAC determines that further examination is unwarranted in light of the catastrophic nature of the member's illness or injury. However, for the retiree who is the subject of this referral, PERAC has determined that a comprehensive medical examination is necessary to complete the assessment.

Your written report should conform to the PERAC format described inside. Your narrative should be clear, concise and consistent and you should cite objective evidence to fully support your findings.

PERAC's Disability Unit staff members are available to respond to your questions about the comprehensive medical evaluation. You may reach this unit by calling (617)591-8956.


Joseph E. Connarton, *Executive Director*

Documents Enclosed for Your Review

1. A letter of referral from PERAC
2. A copy of the Regional Medical Panel Certificate and Narrative completed at the time of the member's disability retirement
3. Medical records and other information submitted to the Medical Panel physicians at the time of the member's disability retirement
4. Medical records from the member's date of retirement to the present (such records may be related to conditions other than the condition for which the member retired)
5. Current job description, **including** essential duties, for the position held by the member at the time of retirement
6. Medical standards and essential duties from the Commonwealth's Human Resources Division if the member retired as a police officer or fire fighter
7. Prior re-examination certificates
8. All available rehabilitation reports
9. In cases concerning state troopers, additional information will be provided by the Department of State Police concerning retraining.

Photo Identification

Before evaluating the member, please obtain a copy of his/her photo identification (driver's license). Please retain a copy of the photo for your records.

Conducting the Evaluation

Consider the condition for which the member retired and the member's general health as they relate to the member's ability to perform the essential duties of his or her former position and the member's rehabilitation potential.

Comprehensive medical evaluations may include medical examinations, vocational testing, meetings, and consultations with medical professionals, including the member's treating physician and vocational rehabilitation counselors. An evaluation may also involve pulmonary function tests, EKGs, functional capacity tests, stress tests, psychiatric evaluations, and other tests and consultations. Municipal firefighters, police officers, and state troopers must be scheduled for a stress test, a functional capacity test, a pulmonary function test and an audiogram unless you have already determined, through your physical examination, that the member is unable to perform the essential duties of his/her former position or a similar position.

If you wish to recommend further medical consultations and/or medical tests, you must obtain approval from PERAC's Nurse Case Manager before arranging for them to take place. Any request for a test, procedure, examination or re-evaluation made by a member or the member's representative at any point during the comprehensive evaluation process must be pre-approved by PERAC. PERAC will not assume responsibility for payment unless you have obtained prior approval from PERAC before acceding to a member's request.

Submission of Materials to PERAC

Please submit your narrative report, along with results of tests that you ordered, and a copy of the member's photo identification to PERAC within 60 days of evaluating the member so that payment can be rendered promptly.

Confidentiality of Comprehensive Medical Evaluation Report and Test Results

A member's medical information is considered to be confidential. There are no circumstances under which the Comprehensive Medical Evaluation Report and test results should be shared with or sent to any party other than PERAC.

The Restoration Service Re-Evaluation (RTSR) Process

When a member is found able to perform the essential duties of his/her former job by three RTS physicians, PERAC will notify the member, his/her retirement board and employer, and the Commonwealth's Division of Human Resources. Some time may pass before a position becomes available and the member is actually restored to active service. In the interim, a PERAC case manager and a CME physician will monitor the member's medical status. Every six months, the member will be asked to complete and return a health questionnaire to PERAC. The member will also be re-evaluated by a CME physician upon any significant change in his/her medical condition or yearly before returning to work. The goal is to assess the retiree's medical readiness to return to work and minimize the possibility of missing a retraining or academy opportunity.

Cancellation and No Show Fees

If a member is unable to attend a CME appointment, he/she must telephone the PERAC Nurse Case Manager to reschedule the appointment. If a PERAC Nurse Case Manager has to cancel a CME evaluation within 48 hours of the scheduled appointment, PERAC will pay the physician a \$150.00 "cancellation" fee.

In the event of severe weather and hazardous travel conditions, a PERAC Nurse Case Manager will contact physicians and retirees to cancel CME appointments:

- If the physician's office remains open despite the inclement weather, but the retiree is unable to attend the appointment, PERAC will pay the physician a \$150.00 "cancellation" fee.
- If the physician's office closes because of inclement weather, PERAC will not pay a cancellation fee to the physician.

If a member fails to keep a CME appointment, the PERAC Nurse Case Manager should be notified immediately. PERAC will pay a \$150.00 "No Show" fee to the physician.

If a member fails to attend a functional capacity test or a stress test, the PERAC Nurse Case Manager should be notified immediately. PERAC will pay a \$50.00 fee to the provider.

Report Introduction

1. At the beginning of your report, it is important to include:

- The name of the member whom you examined
- The date upon which the exam was conducted
- The time the exam began and ended
- Names of all individuals in attendance at the examination

PERAC
FORMAT FOR
NARRATIVE
REPORT

(CONTINUED ON NEXT PAGE)

Report Main Text

Your examination of the member should consider the condition for which the member retired and general health issues as they relate to the member's ability to perform the essential duties of his or her job and the member's rehabilitation potential. Your report should reflect a discussion of each of the following categories in the order indicated.

1. History of the member's illness or condition:

Please reference the certificate and the narrative completed at the time the member retired for disability.

2. Current symptoms:

Describe the member's current symptoms.

3. Member's past medical history:

Including operative procedures, hospitalization, medications, allergies, etc.

4. Medical record review:

Consider all of the following when conducting your examination and reporting your findings:

- A. Physician reports/office notes/consultations
- B. Hospital records/laboratory reports
- C. Imaging studies/stress tests, etc.

5. Physical examination:

- A. Weight, height, blood pressure, pulse, etc.
- B. Review body systems related to injury or hazard undergone.

6. Relevant personal and family history

7. Diagnoses:

You may include and comment on diagnoses found in medical records forwarded to you as part of this evaluation.

8. Prognosis

9. Conclusion:

Please support your findings by citing objective evidence such as laboratory results, x-rays, etc. The more complete a discussion, the more beneficial your report. In your report, you must find either:

- A. That the member is able to perform the essential duties of his/her former position or a similar position;
- Or**
- B. That the member may be able to perform the essential duties of his/her former position or a similar position with rehabilitation,
- Or**
- C. That the member is unable to perform the essential duties of his/her former position or a similar position with or without rehabilitation

If you conclude that the member may be able to perform the essential duties with rehabilitation, please include a rehabilitation plan with cost estimates in your report.

Risk of Re-injury

Please note that the Contributory Retirement Appeal Board (CRAB) has found, "even if a member is physically capable of performing all of the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk to serious harm to the member or third parties." This risk of re-injury has to reasonably be expected to involve a substantial harm.

Restoration to Service Packet

revised: 4.2009



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PH: 617 591 8956 | TTY: 617 591 8917 | WEB: WWW.MASS.GOV/PERAC

STATEMENT FROM THE EXECUTIVE DIRECTOR

Pursuant to Massachusetts General Laws, Chapter 32, section 8, the Public Employee Retirement Administration Commission (PERAC) is responsible for appointing a regional medical panel to evaluate whether a member, who has retired for disability, can perform the essential duties of the position from which he/she retired or a similar job for which he/she is qualified within the same department. The medical panel may conduct non-invasive tests, provided they have been pre-approved by PERAC, as part of the examination.

The medical panel's completed certificate and narrative report are to be considered as evidence by the member's retirement board. In order to allow the board to fully understand your responses to the certificate questions, your report should conform to the PERAC format and fully support the certificate responses. It should be clear, concise and consistent.

Please note this packet of forms and instructions reflects changes as of July, 2003. Please take the time to review it thoroughly.

PERAC's Medical Panel Unit staff members are available to respond to your questions. You may reach this unit by calling 617.591.8956.

A handwritten signature in black ink that reads 'Joseph E. Connarton'.

Joseph E. Connarton, *Executive Director*

Documents Enclosed for Your Review

1. Regional Medical Panel Certificate and the Narrative completed at the time of the member's disability retirement
2. Medical records and other information submitted to the Medical Panel Physicians at the time of the disability retirement
3. Medical records from the member's date of retirement to the present (such records may be related to conditions other than the condition for which member retired)
4. Current job description, **including** essential duties, for the position held by the member at time of retirement
5. Restoration to Service Certificate
6. Payment Invoice
7. Comprehensive Medical Evaluation(s)
8. Medical Standards and essential duties from the Commonwealth's Human Resource Division (if the member retired as a police officer or fire fighter)
9. Prior Re-examination Certificates

Representation at a Restoration to Service Medical Panel

The principal purpose of the examination is to discuss and evaluate the physical condition or mental health of the member. Attendance at the examination shall be limited to the member, the medical panel physician(s), the member's physician and attorney, and the employer's physician and attorney. The member may permit the presence of other individuals, provided their presence will not disrupt the examination.

Photo Identification

Before evaluating the member, please obtain a copy of his/her photo identification (driver's license). Please retain a copy of the photo for your records.

Submission of Materials to PERAC

Please submit the completed Restoration to Service Certificate, narrative report, test results, voucher, and a copy of the member's photo identification to PERAC within 60 days of examining the member so that payment can be rendered promptly.

Confidentiality of Medical Panel Results

A member's medical information is considered to be confidential. There are no circumstances under which the completed Restoration to Service Certificate and narrative report should be sent to any party other than PERAC.

The Restoration Service Re-Evaluation (RTSR) Process

When a member is found able to perform the essential duties of his/her former job, PERAC will notify the member, his/her retirement board and employer, and the Commonwealth's Division of Human Resources. Some time may pass before a position becomes available and the member is actually restored to active service. In the interim, a PERAC case manager and a CME physician will monitor the member's medical status. Every six months, the member will be asked to complete and return a health questionnaire to PERAC. The member will also be reevaluated by a CME physician upon any significant change in his/her medical condition and before returning to work. The goal is to assess the retiree's medical readiness to return to work and minimize the possibility of missing a retraining or academy opportunity.

Report Introduction

1. At the beginning of your report, it is important to include:

- A. The name of the member who was examined, and the member's PERAC Number
- B. The date upon which the examination was conducted
- C. The time the examination began and ended
- D. Names of all individuals in attendance at the examination

Report Main Text

Your examination of the member should cover all body systems, and your report should reflect a discussion of each of the following categories in the order indicated.

1. History of the member's illness or condition

Please reference the Regional Medical Panel Certificate and the Narrative completed at the time the member retired for disability.

2. Current symptoms

Describe the member's current symptoms.

3. Member's past medical history

Include operative procedures, hospitalizations, medications, allergies, etc.

4. Medical record review

When conducting your examination and reporting your findings, consider all of the following:

- A. Physician Reports/Office Notes/Consultations
- B. Hospital Records/Laboratory Reports
- C. Imaging Studies/Stress Tests

5. Physical examination

- A. Weight, height, blood pressure, pulse, etc.
- B. Review body systems related to injury or hazard undergone.

6. Relevant personal and family history

7. Diagnoses

In addition to your diagnosis, you may also comment upon diagnoses included in the member's medical records.

8. Prognosis

9. Conclusion

Your findings should be supported by objective evidence such as laboratory results, x-rays, etc. The more complete a discussion, the more beneficial your report. Your discussion must support your findings:

- A. That a member retired for **less than two years** is or is not able to perform the essential duties of the position from which he/she retired, or
- B. That a member retired for **more than two years** is or is not able to perform the essential duties of the position from which he/she retired or a similar job within the same department

Risk of Re-injury

Please note that the Contributory Retirement Appeal Board (CRAB) has found, "even if a member is physically capable of performing all of the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk to serious harm to the member or third parties." This risk of re-injury has to reasonably be expected to involve a substantial harm.

RTS PACKET INSERT #1: Member Information

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

APPLICANT INFORMATION

PERAC ID: ####	TYPE OF DISABILITY: Disability
SOCIAL SECURITY NUMBER:	###-##-####
MEMBER:	Member Name
MEMBER ADDRESS:	Address Line 1 Address Line 2
RETIREMENT BOARD:	Retirement Board
OCCUPATION:	Occupation
EMPLOYER:	Employer Name
REGIONAL MEDICAL PANEL PHYSICIANS:	Donald S Marks, M.D. -- NEUROL Vincent R Giustolisi, M.D. -- ORTHOP Don R Jaffe, M.D. -- OTLRYS
MEDICAL PANEL SPECIALTY:	ALLERG
EXAMINATION LOCATION:	P.O. Box 730 Westborough, MA 01581
DATE:	mm/dd/yy
TIME:	#:##

FIVE MIDDLESEX AVENUE, SUITE 304 | SOMERVILLE, MA 02145
PH 617 666 4446 | FAX 617 628 4002 | TTY 617 591 8917 | WWW.MASS.GOV/PERAC

