

# **DISABILITY RETIREMENT: PERAC'S COMPLETE GUIDE TO THE PROCESS**

**This guide was originally issued in August of 2008. Since then, three sets of updates have been issued and distributed to retirement boards: in May and November of 2009, and June of 2011. All of these updates are reflected in this 2011 edition of the guide.**

## **Commonwealth of Massachusetts**

### **Public Employee Retirement Administration Commission**

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

The Honorable Suzanne M. Bump, *Vice Chairman*

The Honorable Paul V. Doane

James M. Machado

Donald R. Marquis

Robert B. McCarthy

Gregory R. Mennis

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](http://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 black ink that reads "Joseph E. Connarton". The signature is written in a cursive style with a large, prominent initial "J".

Joseph E. Connarton, *Executive Director*

## Section One:



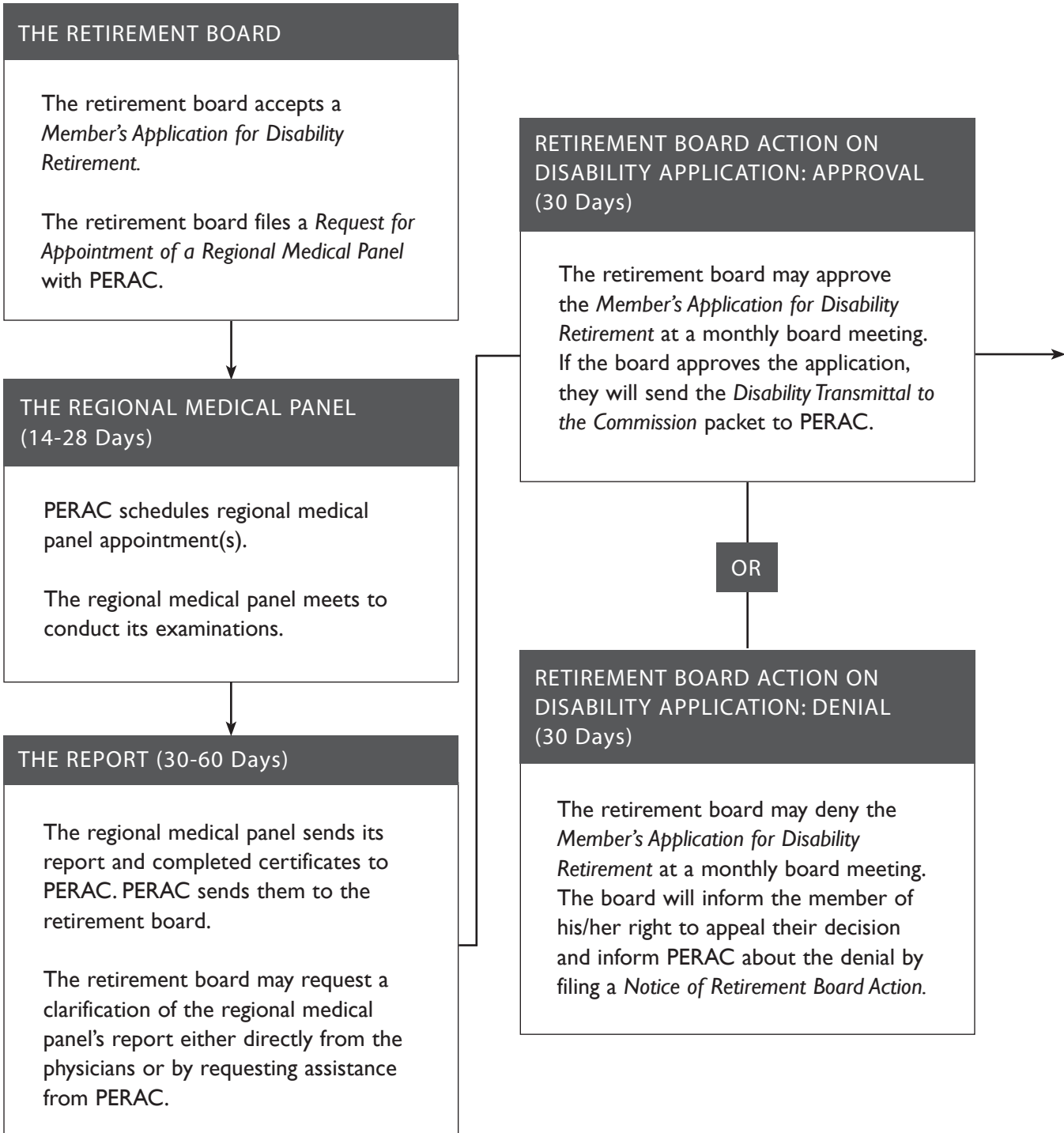
# The Accidental & Ordinary Disability Retirement Process

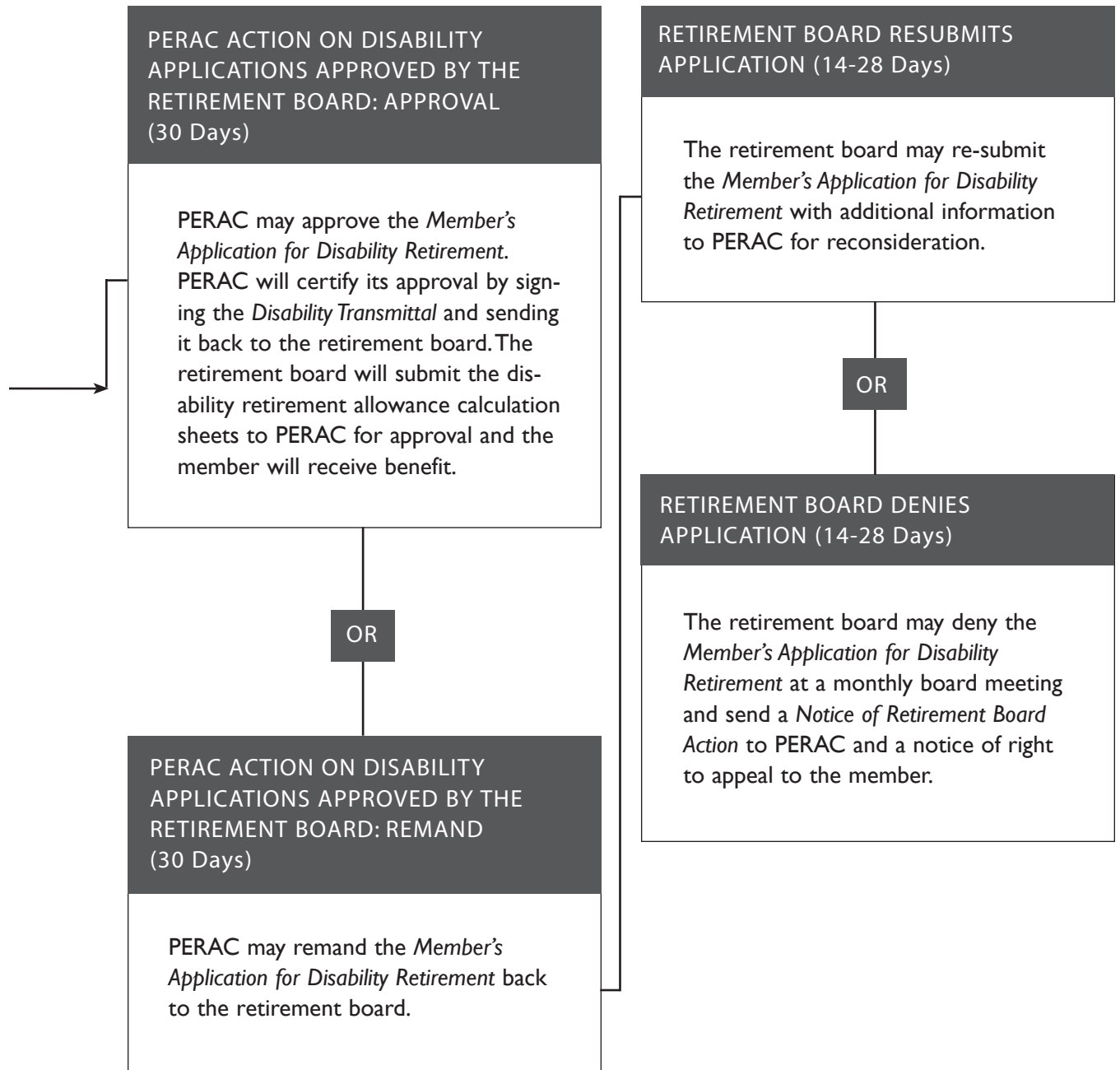


REVISED MARCH 2011

# Accidental/Ordinary Disability Retirement Application Process & Regional Medical Panel Flow Chart

The Public Employee Retirement Administration Commission (PERAC) pays the costs associated with the regional medical panel process. The processing routinely takes 90 to 120 days from PERAC's receipt of a *Request for Appointment of a Regional Medical Panel* to final approval of the *Member's Application for Disability Retirement*.





## Retirement Board Accepts Application for Disability Retirement

All medical records and the application received in connection with an application for disability retirement are confidential. They must be handled in a confidential manner. Care must be taken that persons who are not authorized to review their contents do not see them.

The member will submit to his/her retirement board:

1. A completed *Member's Application for Disability Retirement* packet, and
2. A *Treating Physician's Statement Pertaining to a Member's Application for Disability Retirement* completed by the licensed medical doctor who furnished primary treatment in connection with the member's disability

### **The retirement board will:**

1. Obtain the *Employer's Statement Pertaining to a Member's Application for Disability Retirement*, 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
  - 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.
2. Obtain the personal *Treating Physician's Statement Pertaining to a Member's Application for Disability Retirement* (if not supplied by member).
3. Obtain copies of the member's medical and insurance records for the preceding five-year period.

### **The retirement board will:**

Assign a date of application after it receives the completed *Member's Application for Disability Retirement* packet.

This date will determine the member's effective date of retirement and retirement allowance date.

## Retirement Board Requests a Regional Medical Panel

### **The retirement board will submit the following to PERAC:**

1. A *Request for Appointment of a Regional Medical Panel*
2. A *Regional Medical Panel Selection Form*
3. A *Treating Physician's Statement Pertaining to a Member's Application for Disability Retirement* and Narrative Report
4. Copies of CRAB, DALA, or Superior Court Decisions regarding the case, if applicable.

## PERAC Schedules/Reschedules Medical Panel Appointments

PERAC's Disability Unit schedules/reschedules all of the medical appointments that are associated with applications for disability retirement.

### **PERAC's responsibilities:**

- PERAC will give members at least 14 days notice of any scheduled appointment.
- PERAC will mail appointment notification letters to members via certified mail. Directions to the appointment will be stapled to the appointment letter.
- PERAC will mail appointment notification letters to the member's retirement board, employer, and the regional medical panel physicians via regular mail.
- PERAC will provide the regional medical panel physicians with the *Medical Panel Certificate(s)*, and a *Regional Medical Panel* packet that includes instructions about how to complete the certificate(s) and the narrative report.

### **The retirement board's responsibilities:**

The member's retirement board will mail a completed *Transmittal of Background Information to a Regional Medical Panel*, along with the member's medical records, to the regional medical panel physicians.

### **The member's responsibilities:**

- The member is responsible for bringing copies of all relevant x-rays, CT scans, and diagnostic testing results from his/her treating physicians and medical facilities to the regional medical panel appointment. It is also the member's responsibility to return these materials to these physicians and facilities after the appointment has taken place.
- The member is responsible for providing notice to his/her legal counsel and physician of the date(s), time(s), and location(s) of any scheduled regional medical panel examinations.
- If the member cancels an appointment within 48 hours of a scheduled examination, or does not keep an appointment, he/she is responsible for reimbursing PERAC for the costs associated with that appointment before PERAC will schedule another appointment.

### **Rescheduling appointments:**

- PERAC's Disability Unit will reschedule an appointment only in cases of compelling personal reasons, such as a death in the member's family or the hospitalization of the member. In these situations, the reimbursement requirement will be waived by PERAC upon the member's submission of appropriate documentation.
- PERAC's Disability Unit cannot reschedule an appointment to facilitate an attorney's attendance.

## Regional Medical Panel Meets

### **Attendance at regional medical panel appointments:**

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.

The physicians designated by the member and the member's employer may file written objections to the medical panel proceeding, if they believe that it is warranted.

## Regional Medical Panel Certificates & Narrative Reports Received by PERAC

The regional medical panel physicians will submit the completed *Medical Panel Certificate* and narrative report to PERAC within 60 days of conducting the medical panel examination.

PERAC will review the submitted *Medical Panel Certificate* to ensure that it has been correctly completed. If the regional medical panel has failed to properly complete the *Medical Panel Certificate* and/or narrative report, PERAC will return the documents to the physicians with an *Incomplete Medical Panel Report* detailing what needs to be addressed.

Within five days of PERAC's receipt of a completed *Medical Panel Certificate* and narrative report, PERAC will mail the documents to the member's retirement board. If it was necessary for PERAC to send an *Incomplete Medical Panel Report*, a copy of it will also be attached.

## Retirement Board May Request a Clarification

If the member's retirement board has questions about the *Medical Panel Certificate* and narrative report, the retirement board may request a clarification directly from the regional medical panel physicians by sending them a letter outlining exactly what they wish the panel to address, with a copy of the request to PERAC.

Or a member's retirement board may ask PERAC's Disability Unit for assistance in obtaining a clarification.

In order for a panel to respond to a clarification, the regional medical panel members will need to meet and discuss the questions raised. Although PERAC cannot hold physicians to a timeframe regarding clarifications, PERAC does track requests and seeks to have clarifications addressed in a timely fashion.

## When a Retirement Board Approves the Application for Disability Retirement

The member's retirement board must submit the completed *Disability Transmittal to the Commission* packet to PERAC. The packet must include the following attachments:

- Statement of facts found by the retirement board
- *Regional Medical Panel Certificate* and narrative report
- *Treating Physician's Statement Pertaining to a Member's Application for Disability Retirement* and narrative report completed by the member's physician
- The employer/department head's completed *Employer's Statement Pertaining to a Member's Application for Disability Retirement* with all required attachments
- *Member's Application for Disability Retirement* packet
- Proof of the member's Veteran status, including dates of active service, if applicable
- If the member is applying under a presumption, proof of physical examination upon entry to service or subsequent to entry
- Death Certificate, if applicable

PERAC will approve or remand an *Application for Disability Retirement* within 30 days of receipt of a completed *Disability Transmittal to the Commission* packet.

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

#### **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 March 2011)

---

## **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 *Treating 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.

### **Hazard Undergone**

One of the reasons for applying for an accidental disability is because a member is permanently and totally disabled because of a hazard undergone while in the performance of his/her duties. This injury must have occurred while in the performance of a member's duties at a definite place and time without serious and willful misconduct on the member's part. As an example, a hazard undergone could include exposure to chemicals which caused a disease which left the member permanently and totally disabled.

### **Hospital and Medical Facilities**

This is a complete list of any hospitals, clinics, doctors' offices or other medical centers which you may have been admitted to or seen at as a result of your injury.

### **Incident Report**

An incident or injury report is an official report submitted by you or another person to your employer and retirement board. This report is the official notification to your employer and retirement board that you suffered an injury. Failure to file an incident report may prevent you from receiving a disability retirement allowance.

### **Intent to Retire**

This statement, which must be signed by you, is a part of your disability application and indicates that you wish to leave your current position and apply for a retirement allowance. This statement is signed under oath and should be carefully read and considered before it is signed.

### **Military Form DD214**

This US Military form is issued to every veteran. The form contains information necessary for your retirement board to determine if you qualify as a veteran under the law and are eligible for special veteran benefits. A copy of this form should be supplied if you believe you qualify as a veteran under the law.

### **Modifications/Accommodations**

These are changes made to a member's position by their employer to allow a disabled member to perform their position.

### **111F Benefits**

These are payments made to police and fire fighters who are injured while on duty. Eligibility for these benefits is defined by G.L. c. 41, § 111F.

### **Option**

If you are approved for disability retirement, you will have three options on how you may receive payments. One option provides maximum benefits for your lifetime with no payments to any beneficiaries after your death. One option provides less benefits but gives your beneficiary the remainder of your annuity savings account, if any, upon your death. One option provides still less benefits during your lifetime, but provides an allowance to your beneficiary for their lifetime after your death. Your retirement board will provide a calculation of the amounts you and your beneficiary will receive under each option before you choose. You should carefully consider which option is appropriate for you before making this choice.

### **Option (continued)**

Once this choice takes effect, it cannot be changed. If you are married, your spouse must acknowledge your choice in writing. Your retirement board is available to answer all your questions concerning the option choices.

### **Ordinary Disability**

An ordinary 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 for any reason other than a job-related injury or exposure to a job-related hazard. Eligibility for an ordinary disability is defined by G.L. c. 32, § 6.

### **Perjury**

Perjury is the crime of lying or providing untrue statements under oath. A disability application is signed under the pains and penalties of perjury. Committing perjury in connection with this application could result in the loss of benefits as well as criminal and civil penalties.

### **Permanency Standard**

When your doctor and the Regional Medical Panel examine you to determine whether you are permanently and totally disabled from your position, they are required to use these instructions in reaching their conclusion as to whether your disability will or will not improve. A disability is permanent if it will continue for an indefinite period of time that is likely never to end even though recovery at some remote, unknown time is possible.

### **Personal Injury Sustained**

One of the reasons for applying for an accidental disability is because a member is permanently and totally disabled because of a personal injury sustained while in the performance of his/her duties. This injury must have occurred while in the performance of a member's duties at a definite place and time without serious and willful misconduct on the member's part. As an example, a personal injury sustained could include injuries suffered from a fall or psychological injury due to a trauma.

### **Physicians**

This is a complete list of medical doctors who treated you for any condition, including your injury, within the last five years.

### **Treating Physician's Statement**

As a part of your disability application, your primary treating physician will be asked to file a statement which requests medical information about you and the injury or hazard for which you are seeking to retire. 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.

### 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 *Treating Physician's Statement*.

### Public Employee Retirement Administration Commission (PERAC)

PERAC is the oversight agency for the 105 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. Attendance at the examination shall be limited to the member and the medical panel physician(s), the employee's physician and the employer's physician. The member's attorney and the employer's attorney may attend the examination. The member may permit the presence of other individuals, provided that their presence will not disrupt the examination.

### **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.

# Regional Medical Panel Packet

revised: March 2011



COMMONWEALTH OF MASSACHUSETTS | PERAC DISABILITY UNIT | FIVE MIDDLESEX AVE. | SUITE 304 | SOMERVILLE, MA | 02145  
PH: 617 591 8956 | TTY: 617 591 8917 | WEB: WWW.MASS.GOV/PERAC

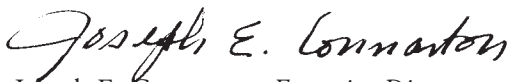
## STATEMENT FROM THE EXECUTIVE DIRECTOR

Pursuant to Massachusetts General Laws, Chapter 32, 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 take the time to review this packet of forms and instructions 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. In the event that a member's treating physician attends the examination, please contact the Disability Unit for direction regarding his/her participation and report.

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

### 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).
- D. 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.
- E. Member in Service: Please note that CRAB has found, an "employee who has left government service without established disability may not, after termination of government service, claim accidental disability retirement status on basis of subsequently matured disability."

You are asked to address whether the member was disabled at the time he or she was last employed by a governmental unit.

# Comprehensive Medical Evaluation

## Physician's Packet revised: 2.2011



COMMONWEALTH OF MASSACHUSETTS | PERAC DISABILITY UNIT | FIVE MIDDLESEX AVE. | SUITE 304 | SOMERVILLE, MA | 02145  
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.

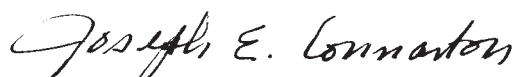
In accordance with this statute, the Public Employee Retirement Administration Commission (PERAC) schedules all comprehensive medical evaluations of disabled retirees. Evaluations can take place once per year during the first two years after a member's retirement, once every three years thereafter, and 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, state troopers and any other public safety personnel under the public pension laws 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.

# Comprehensive Medical Evaluation

## Member's Packet revised: 2.2011



COMMONWEALTH OF MASSACHUSETTS | PERAC DISABILITY UNIT | FIVE MIDDLESEX AVE. | SUITE 304 | SOMERVILLE, MA | 02145  
PH: 617 591 8956 | TTY: 617 591 8917 | WEB: WWW.MASS.GOV/PERAC

### STATEMENT FROM THE EXECUTIVE DIRECTOR

Dear Member:

Pursuant to Massachusetts General Laws, Chapter 32, section 8, as a member retired for accidental or ordinary disability whether voluntarily or involuntarily, you are required to participate in an evaluation to determine whether you are able to perform the essential duties of the position from which you retired, or a similar job within the same department for which you are qualified, or whether your return to your former or similar job is likely to be expedited by your participation in a medical or vocational rehabilitation program.


In accordance with this statute, the Public Employee Retirement Administration Commission (PERAC) schedules 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 (not sooner than one year from the completion of the last evaluation). PERAC is committed to assembling and analyzing objective and comprehensive medical data. Every step is taken to manage cases appropriately and to ensure that members are evaluated in a thorough, fair, and objective manner. State troopers are subject to a similar evaluation process.

PERAC's Nurse Case Manager asked you to forward to PERAC all of your medical records related to any examinations, tests, and studies performed since your disability retirement became effective. PERAC has reviewed all of the information received from you and from your retirement board, as well as that already on hand, and determined that a comprehensive medical examination is necessary to complete your medical assessment. PERAC has selected a physician, provided him/her with your medical information and scheduled an appointment for you. Enclosed in this packet are your appointment letter, a map and directions to the physician's office, a medical release form, and a survey form that you can use to comment about your evaluation experience.

All tests, procedures and examinations that are carried out or ordered by the physician who is conducting your comprehensive medical examination must be pre-approved by PERAC. No test, procedure or examination can be initiated upon your request without prior approval from PERAC.

To ensure timely processing of your case, you are strongly encouraged to provide all medical information prior to the date of your comprehensive medical examination. With access to all up-to-date medical information, PERAC is better able to make an assessment without requiring the duplication of medical tests and studies to produce relevant data.

PERAC's Disability 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*

**The Evaluation May Include**

Comprehensive medical evaluations may include medical examinations, vocational testing, meetings, and consultations with medical professionals (including a 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. At no time will you be asked to make payment for any part of the comprehensive medical evaluation scheduled by PERAC.

**Tests for Public Safety Personnel**

Municipal firefighters, police officers, state troopers and any other public safety personnel under the public pension laws must be scheduled for a stress test, a functional capacity test, a pulmonary function test and an audiogram unless the CME physician has already determined, through his/her physical examination, that the member is unable to perform the essential duties of his/her former position or a similar position.

**Materials for Physician**

The physician who will be conducting your evaluation has been sent a letter of referral, copies of all available medical information, and a copy of the current job description associated with the position you held at the time of retirement. The essential duties of that position have been highlighted. This physician has also received all available rehabilitation reports. If you are a retired police officer or fire fighter, a copy of the medical standards and essential duties established by the Commonwealth's Human Resources Division for these positions has also been sent to the physician.

**The Physician Will Consider**

The physician will consider the condition for which you retired and your general health as they relate to your ability to perform the essential duties of your former or a similar job and your rehabilitation potential. With PERAC's approval, the physician may recommend further medical consultations and/or non-invasive medical tests.

**No Show Policy for CME and RTS Examinations**

If a disability retiree fails to appear at a scheduled examination without having been granted a request for rescheduling by the Commission, the disability retiree shall reimburse the Commission for the costs of that examination before a new examination shall be scheduled. In addition, as further stated in M.G.L.c.32§8, "if such member shall refuse without good cause to submit to any evaluation, his rights in and to the pension provided for in section six and seven shall promptly be terminated by the board; provided, however, that the member shall first be given written notice and an opportunity to be heard by the board with respect to such termination."

**Final Report**

Once the comprehensive evaluation has been completed, the physician will submit a final report, based on objective evidence, to PERAC indicating either:

A. That you are able to perform the essential duties of your former position or a similar position;

**Or**

B. That you may be able to return to the essential duties of your former or similar

job with rehabilitation;

**Or**

C. That you are unable to perform the essential duties of your former or similar job with or without rehabilitation.

If the comprehensive medical evaluation indicates that you are able to perform the essential duties of your former position or a similar job, PERAC will schedule you for a series of restoration-to-service medical examinations.

### **How are retirees selected for a Comprehensive Medical Evaluation?**

Retirees are selected by PERAC through an automated Selection Report run on PERAC's disability database. The report's selection criteria are consistent with the Massachusetts General Laws. A disabled retiree may initiate the process by filing a written request with PERAC (not sooner than one year from the completion of the last evaluation).

COMMONLY  
ASKED  
QUESTIONS &  
ANSWERS

### **Why do I have to provide medical records to PERAC?**

The medical records from the period subsequent to your disability retirement are of crucial importance. With access to all up-to-date medical information, PERAC is better able to make an assessment without requiring the duplication of medical tests and studies to produce relevant data. In some instances, based on available medical records, a retiree may be excused from an examination if PERAC determines, in light of the nature of the member's illness or injury, that an examination is unwarranted. However, if a member informs PERAC that up-to-date medical records cannot be made available, PERAC may schedule the member for a comprehensive medical evaluation in order to complete an objective assessment.

### **May I direct the physician who conducts my evaluation to carry out certain tests?**

Any and all requests for additional tests, procedures and consultations made by you or by your representative(s) must be pre-approved by PERAC. PERAC will not assume responsibility for payment unless such prior approval has been granted by PERAC.

### **May I ask the physician who conducted my evaluation to re-evaluate me if I disagree with his/her findings or I have new information to share with him/her?**

Any requests for re-evaluation must be submitted in writing directly to PERAC. Because PERAC will not schedule another comprehensive medical examination for you in the same calendar year (not sooner than one year from the completion of the last evaluation), it must be emphasized that the best time to provide updated information is prior to the comprehensive medical examination taking place.

### **What happens if the comprehensive evaluation report indicates that rehabilitation might make it possible for me to perform the essential duties of my former position or a similar position?**

If PERAC determines that you would benefit from a rehabilitation program and that such a program is cost-effective, your retirement board must provide the rehabilitation program for you. Such rehabilitation programs shall include only those services that have been approved by PERAC. Your retirement board must pay for the cost of the program, less any benefits payable under your insurance policies. Any rehabilitation program will include only those services that are aimed toward returning you to your former position or a similar position in the same department. It will not include re-training for other occupational pursuits.

### **What will happen after I complete a rehabilitation program?**

After you complete the rehabilitation program, your retirement board will require you to submit to a mental or physical examination. The examination will determine the scope of your physical capabilities, in light of the completed rehabilitation program, and whether you are able to perform the essential duties of your former job or the essential duties of a similar job within the same department, given your condition.

### **What happens if I refuse to participate in a comprehensive medical evaluation and/or a rehabilitation program?**

If you refuse to participate without good cause, your retirement board will terminate your retirement allowance. You will be given written notice and an opportunity to be heard by the retirement board prior to the termination of benefits. The board's determination may be appealed to the Contributory Retirement Appeal Board.

### **May I appeal the determination of the CME Physician who examined me?**

If you disagree with the determination of the CME physician who examined you, you should appeal this decision to the Superior Court in the county in which you reside, or in Suffolk Superior Court, which is located in the City of Boston. PERAC should be named as the Defendant. You should file your appeal within thirty days of notification from PERAC. For assistance in filing such an appeal, you may want to contact an attorney. You may also wish to contact the clerk of the appropriate Superior Court for help.

### **What happens if no jobs are available after I successfully complete the CME/RTS 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 re-evaluated 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.

### **What happens if I fail to attend a CME/RTS physician appointment and/or associated tests/consults?**

You will be required to reimburse the Commission for the cost of the no-show appointment. If a disability retiree fails to appear at a scheduled examination without having been granted a request for rescheduling by the Commission, the disability retiree shall reimburse the Commission for the costs of that examination before a new examination shall be scheduled. If such member shall refuse without good cause to submit to any evaluation, his rights in and to the pension provided for in section six and seven shall promptly be terminated by the board; provided, however, that the member shall first be given written notice and an opportunity to be heard by the board with respect to such termination.

# Restoration to Service Packet

revised: 3.2011



COMMONWEALTH OF MASSACHUSETTS | PERAC DISABILITY UNIT | FIVE MIDDLESEX AVE. | SUITE 304 | SOMERVILLE, MA | 02145  
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 take the time to review this packet of forms and instructions.

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. In the event that a member's treating physician attends the examination, please contact the Disability Unit for directions regarding his/her participation and report.

### **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.