

## MEMORANDUM

TO: All Retirement Boards

FROM: Bill Keefe, Executive Director

RE: Disability Presumptions and Pre-Employment Physicals

DATE: March 4, 2026

Pre-employment physicals have been a frequent concern and following PERAC's most recent disability presumption presentation at the 2025 Massachusetts Association of Contributory Retirement Systems ("MACRS") Fall Conference, we have received numerous inquiries concerning the ability of retirement boards to obtain copies of the pre-employment physicals for members who may be eligible to apply for accidental disability retirement under one of the statutory presumptions.

Pursuant to all three statutory presumptions in Chapter 32 (§ 94 Heart, § 94A Lung, and § 94B Cancer), a complete copy of the pre-employment physical undergone or a copy of a physical undergone subsequent to entry into service must be produced, as this document is a prerequisite to receiving an accidental disability retirement under a presumption. Without a copy of the results of a pre-employment physical or a copy of the results of a physical subsequent to entry into service, an accidental disability retirement application based on a presumption cannot be granted. As such, the preservation of copies of pre-employment physicals, specifically for public safety members, is of utmost importance.

Currently, retirement boards are unable to formally require employer units and members to provide copies of the pre-employment physical at the time of entering service in a retirement system. This practice is restricted by the Health Insurance Portability and Accountability Act ("HIPAA"). However, retirement boards can provide an **optional, limited HIPAA waiver** to members that would allow the retirement board to obtain a copy of only the pre-employment physical records. The waiver should be created in conjunction with your Board counsel to ensure compliance with standard HIPAA waivers as used in the disability retirement process.

This waiver can be part of the on-boarding materials for new members and can be sent to current members to allow them to opt-in and have a copy of their pre-employment physicals obtained by the retirement board. Should a copy of the pre-employment physical not be found, members should be encouraged to provide any copies of physicals that they have undergone with their treating physician after entering service. If a member is providing the records themselves, no HIPAA waiver is needed.



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PERAC highly encourages retirement systems to adopt this practice and provide an optional HIPAA waiver to all new and current members, so as to preserve the pre-employment physicals for future use should a public safety member file for an accidental disability retirement benefit under one of the three statutory presumptions. This best practice should help to ensure that all public safety members eligible to apply for an accidental disability retirement benefit under a presumption are not barred from doing so solely because a copy of the pre-employment physical cannot be found by the department.

If you have any further questions, please feel free to contact General Counsel Judith Corrigan at (617) 591-8904 or at [judith.a.corrigan@mass.gov](mailto:judith.a.corrigan@mass.gov).