



The Accidental & Ordinary Disability Retirement Process



Commonwealth of Massachusetts
Public Employee Retirement Administration Commission

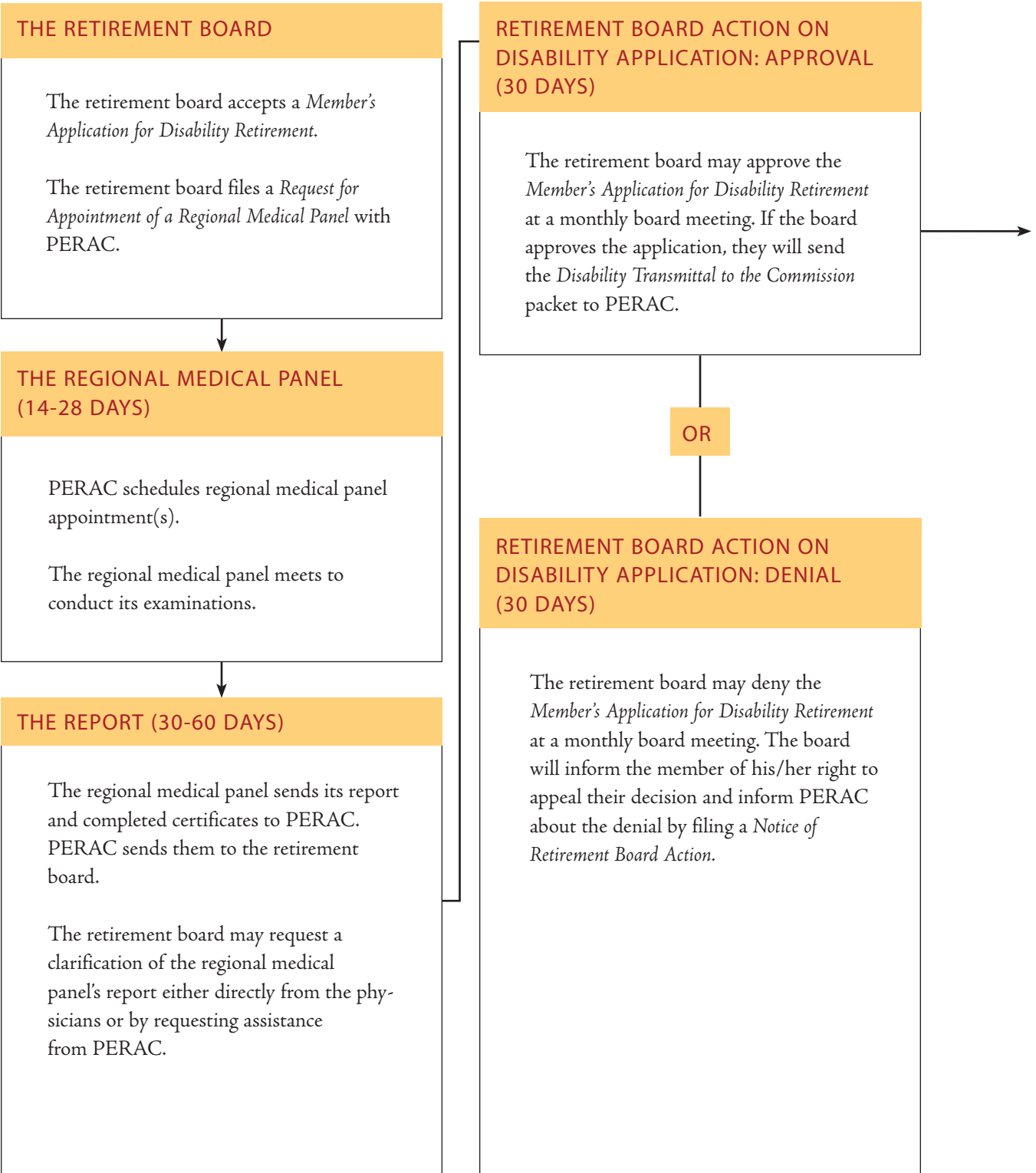
5 Middlesex Avenue, Suite 304
Somerville, MA 02145
ph 617 666 4446 | tty 617 591 8917 | web www.mass.gov/perac

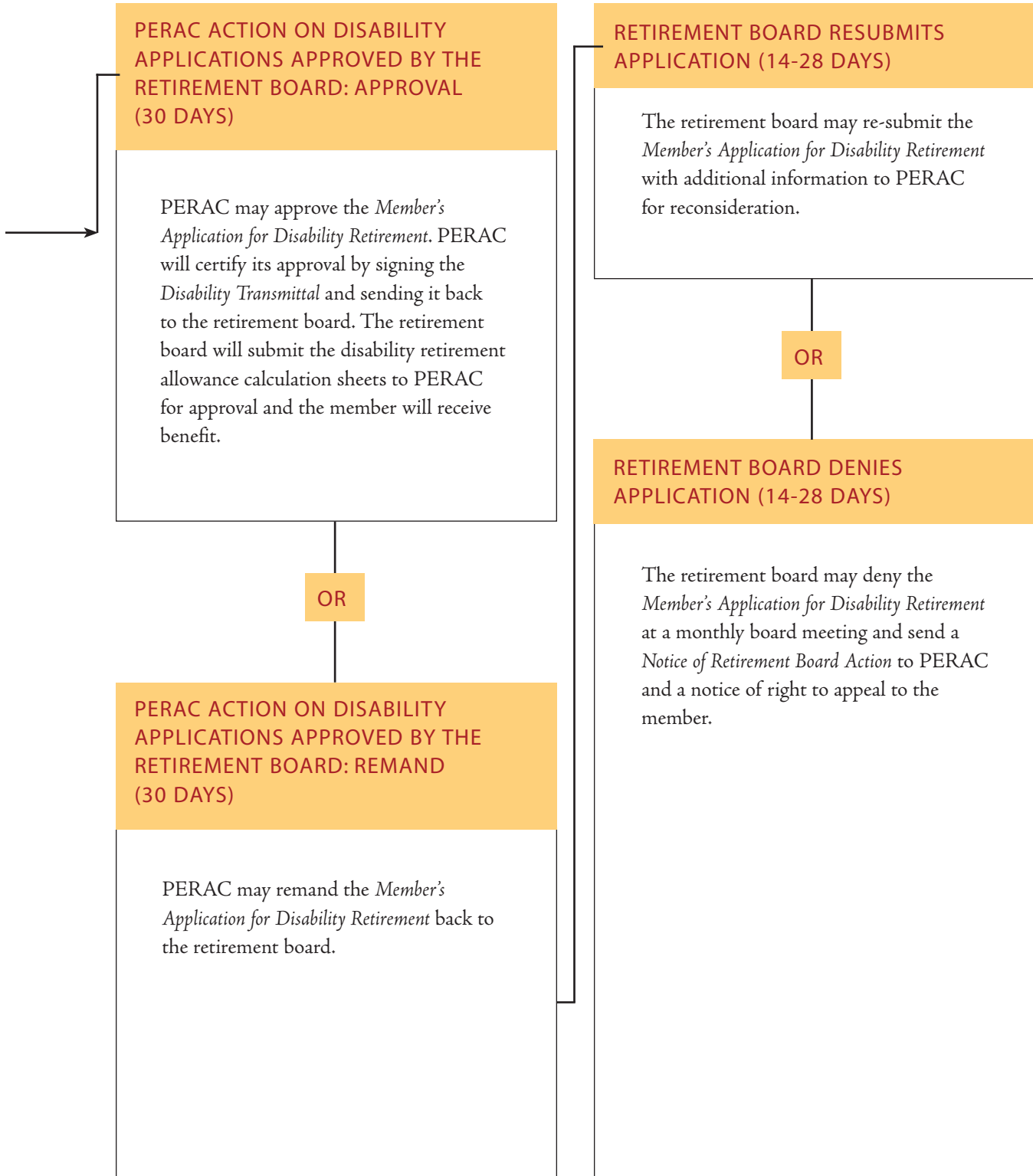
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The Accidental & Ordinary Disability Retirement Process

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*
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.

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.

Presumptions (cont.)

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. *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.

Notes

Commonwealth of Massachusetts
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Five Middlesex Avenue
Suite 304
Somerville, MA 02145
ph 617 666 4446
fax 617 628 4002
tty 617 591 8917
www.mass.gov/perac