The Military and Veteran Disability System

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Vignette

The service member sitting in front of the military psychiatrist was not your average American young man. At age 25, he had successfully completed 3 combat tours as an infantryman in both Iraq and Afghanistan. On his last deployment he sustained serious injury to his left lower leg when he was involved in a roadside bombing attack on his convoy and has undergone multiple surgeries to save the limb and heal the complex injury. Unfortunately, 1 year out from the treatment he has limited mobility in his left leg and moderate to severe chronic pain which limits his daily performance of duties. Since his return he has had continued difficulties with insomnia, recurrent combat related nightmares, depressive symptoms and heightened senses of anxiety especially when in public areas that are crowded which has led to a diagnosis of and treatment for post-traumatic stress disorder. Today his physician is discussing the need for the initiation of a medical evaluation board, since he will not be likely to continue performing his service member duties given his physical and behavioral health conditions which limit his performance in both the social and occupational settings.

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Introduction

To the vast majority of athletic men and women within our country the thought of becoming permanently disabled at the age of 25 is unthinkable. The military is perhaps the only organization that places our citizenry in extremely hazardous areas around the world to perform life threatening duties on a daily basis. For those individuals injured within the bounds of their service in the military, in conjunction with the Department of Veterans Affairs strives to employ a system to ensure service members are taken care of as quickly as possible.

Prior to 2007, the Department of Defense and Veteran's Affairs conducted separate disability evaluation processes. This frequently led to service members medically separating or retiring from the military without coordination for follow on Veteran's Affairs medical services or disability benefits being put in place resulting in delays in care and benefits gaps leading to financial hardship. From 2007 to 2009, the two departments began the Integrated Disability Evaluation System. The Integrated Disability Evaluation System was intended to resolve those issues by providing a unified, less complex system that provided consistent evaluations and ratings, and most importantly ensured that disabled service members leaving the military were linked into the Veteran Affairs and receiving benefits [1].

This focus on ensuring veterans are connected to available resources has resulted in post 9/11 veterans having a 43% chance of having a service connected disability which was significantly higher than prior eras [2]. However, post 9/11 veterans do no represent the overwhelming majority of the veterans in our population and even then, there are many who are entitled and needing of disability support who have not been connected. For example, a 2017 Government Accountability Office assessment found that 62% of the 91,764 service members separated for misconduct from the military between 2011 and 2015 were subsequently diagnosed with posttraumatic stress disorder within 2 years of separation [3]. Therefore, while the Integrated Disability Evaluation System helps service members such as our young man in the vignette above, there are many others who may have left the military prior to 2007 or left the military through mechanisms other than a medical separation or retirement that still may be eligible for Veteran's Affairs medical and disability benefits. As such, it is important that all providers who are delivering care to military and veteran patients understand these systems and processes to ensure that the patients are taking advantage of the full scope of benefits afforded them. This chapter will provide an overview of the initial steps taken within the military after injury for recovery and rehabilitation, outline the Integrated Disability Evaluation System, provide information on how to seek out and determine eligibility for Veteran's Affairs services for those who were not medically retired or separated from the military, and dispel some of the common myths about the military and Veterans Affairs disability system.

Initial Injury and Rehabilitation

All providers within the military medical system work to heal our service members in order to return them to training or to return them to the fight. Whenever an injury or illness halts a service member from being able to train or fight the treating provider does two things: render appropriate medical care, and communicate to command any limitations to duty that are required to allow healing to occur quickly. For example, should one of our many airborne infantry men perform a training jump from an airplane and twist his ankle on landing (a common enough occurrence given the amount of weight of the military gear) the provider would do the examination, obtain radiographs if indicated, treat the injury, and prescribe any medications that may be needed. But that is only the first step in recovery, and there is a third party that is interested in the service member's recovery as well—his commanding officer. Per military doctrine and federal law, the Commanding Officer may be provided specific and limited medical information on any injured or ill service member [4, 5]. This does not represent a HIPPA violation so long as the provider adheres to the boundaries set and reports on only the Diagnosis (What happened), Prognosis (How long until better), Treatment Plan (How will he/she get better), and the Limitations to Duty (What things shouldn't the service member do, and how long shouldn't they do them). This is communicated in a document called the Military Medical Profile, and it allows the Commanding Officer to make decisions about the service members such as: Should they jump out of an airplane tomorrow? Probably not.

So, in the ankle sprain example described above the provider treats the service member, and then sits with them and discuss exactly what is going to be written in the profile, or better yet, write the profile while they are in the office and show it to them. Transparent. No surprises. In plain language. The provider might write something like: "Sprained ankle, 4 weeks until full recovery is expected. Treatment of rest, intermittent icing, ankle wrapping, and elevation for 1 week, with light duty for the full 4-week period. Service member may run at own pace as tolerated. No jumping, airborne duties, or high impact exercises/work details for 4 weeks and then may return to full duty status." This profile is temporary, 4 weeks in duration, and communicates everything in plain language in a way the service member and their commander understand it. The goal is to prevent re-injury during the period of healing, to return the service member to full duty quickly, and to avoid a more complex injury from occurring—one that might warrant medical separation from service. Should the provider desire a more comprehensive understanding on medical profiling, they are encouraged to review the service specific guidance as the specific processes vary for the Army, Navy/Marines, and Air Force.

While some service members desire to continue serving after serious injury or illness, often their sense of duty and patriotism is unable to overcome the injuries that they have sustained. Specifically, if they will not be able to perform their

essential military duties and functions within a year they will be referred into the Integrated Disability Evaluation System to determine if they may continue serving or if they will need to undergo a medical separation or retirement. This decision point about whether a service member will be able to return to full duties within a year is known as the Medical Retention Determination Point. Figure 10.1 outlines how this begins the disability evaluation process.

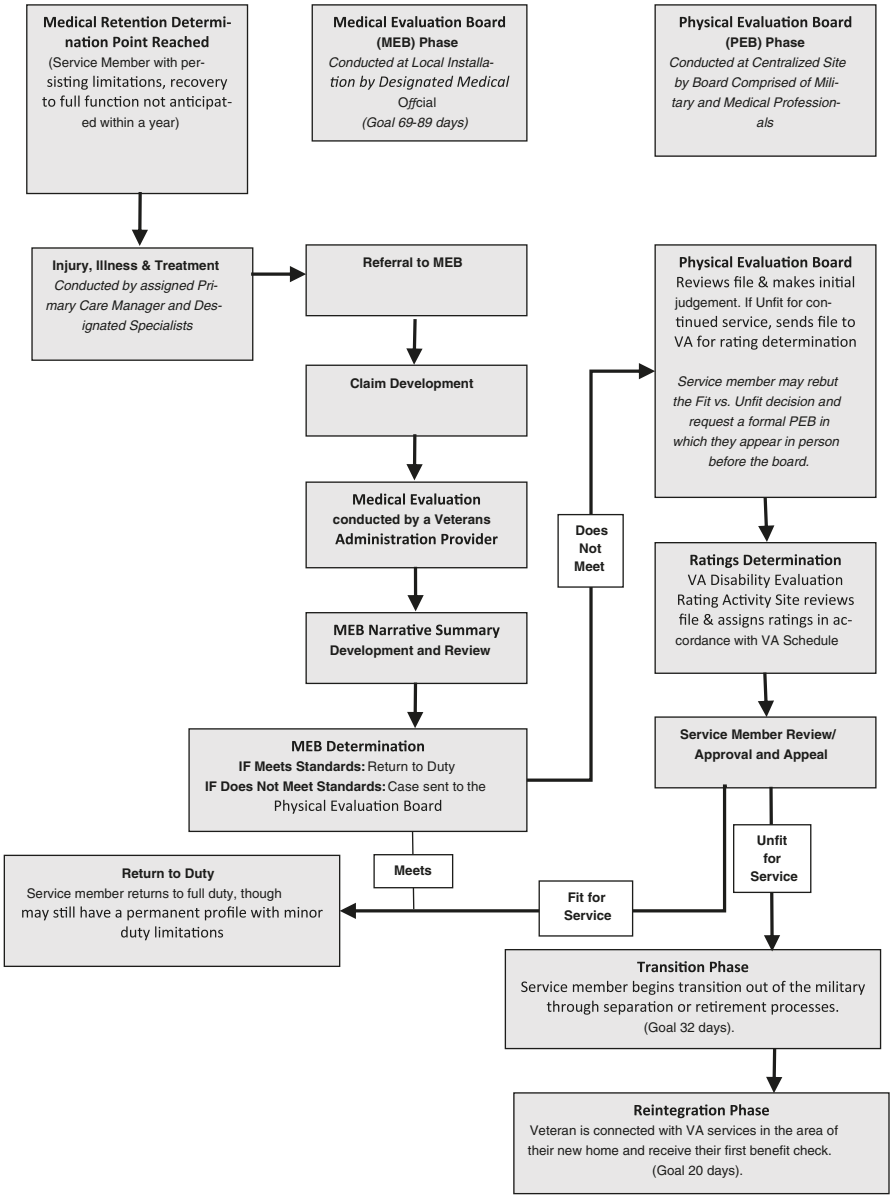

Fig. 10.1 Overview of VA/DoD integrated disability evaluation system

It is important to note that mental health conditions fall into these categories in the same manner as other illness and injuries. Service members with conditions such as depression, posttraumatic stress disorder, substance use disorders, and adjustment disorders may be placed on limited duties while they initially undergo treatments or start new medications but may return to full responsibilities while on maintenance or long-term management and not require a referral to the disability system unless their condition remains refractory to treatment. In contrast, certain conditions such as Bipolar Disorder or Psychotic Disorders will result in permanent military restrictions as those service members who carry these diagnoses are not able to participate in overseas deployments. As such, those individuals do not need to wait a year before being referred to the disability process, but rather just a stabilization of any acute exacerbation [5].

In order to conceptualize the decision point, let us take our wounded service member from earlier and go through the decision-making process up through Medical Retention Determination Point. For the sake of brevity, we can say that the service member has undergone multiple surgeries and the surgeons have placed their assertion in the medical record that the service member has reached maximum benefit from medical care for his leg injury. He has seen both his primary care manager and a pain management specialist for care for his chronic pain and they too have documented the service member reaching maximum benefit from the care delivered. Pain remains, and it limits his activities but is moderately controlled with the medications and complimentary alternative medicine approaches. His behavioral health provider in this visit has noted as that the service member has done well in therapy and completed an evidence supported treatment such as prolonged exposure therapy, but that symptoms which are limiting his social and occupational function do remain and which still meet diagnostic criteria for PTSD.

Integrated Disability Evaluation System

Once a service member reaches the Medical Retention Determination Point, they are referred to the Integrated Disability Evaluation System. This four-phase process, outlined in Fig. 10.1, is the military's mechanism for determining a service member's fitness for continued service while ensuring the timeliness of Veterans Affairs disability benefits when applicable. The process is expected to take approximately 6 months to complete the four phases but may be extended due to several factors [6, 7].

Medical Evaluation Board (MEB)

The first phase of the Integrated Disability Evaluation System is the Medical Evaluation Board. This phase is accomplished at the local military installation medical facility by designated and specially trained medical providers. Upon referral, the service member is assigned a liaison officer who supports the service member

through process, assemble the service member's case file, and gathers all necessary documents to include medical records and a non-medical assessment from the service member's commanding officer.

Once the service member's claim is assembled including a list of all potential medical conditions which require evaluation for potential disability, then the service member undergoes a thorough medical evaluation by both general and specialty providers. This exam is specifically performed by Department of Veterans Affairs providers. These providers will review the service member's medical records and conduct independent evaluation. It is important to note, that if there are discrepancies between the Veterans Affairs and prior military provider's diagnoses and or limitations, the Veterans Affairs exam is the one that will be used for determination of duty limitations and disability ratings. This exam is generally completed at the nearest Veterans Affairs facility. Several military installations have Veterans Affairs clinics located on site; however, this practice varies from site to site.

Upon completion of the medical exam, the findings and evaluation are returned to the local military health system Integrated Disability Evaluation System team where the exam is reviewed by the Medical Evaluation Board physician. The physician reviews all the diagnoses, limitations, and conditions and applies military regulations to determine whether the service member meets medical retention standards [8]. If they do meet medical retention standards, then the medical evaluation board can be terminated at this time and the service member returned to duty. These findings are summarized by the Medical Evaluation Board physician in a document called the Narrative Summary. If it is determined that the service member does not meet the medical retention standards then the Medical Evaluation Board physician must comment in the narrative summary on whether the condition existed prior to military service, if it was service aggravated, and whether the service member has been compliant with treatment recommendations and protocols. These three areas can all have an impact on the disability rating that is awarded by the Department of Veterans Affairs for a condition.

Prior to moving on to the next phase, the service member is given the opportunity to review the narrative summary and may appeal the findings and recommendations. As part of this system, the service member has access to legal counsel familiar with this process who can provide counsel and recommendations. Upon either service member approval or disposition of the appeal, the narrative summary is forwarded to the Physical Evaluation Board. This completes the medical evaluation board phase. The goal is to complete this phase in approximately 69–89 days; however, that timeline can vary. The factors which most influence the timeline for completion is the scheduling of the Veterans Affairs physical, any appeals to the narrative summary, and if the service member has some ongoing disciplinary action.

Physical Evaluation Board (PEB)

The Physical Evaluation Board occurs in one of a few centralized locations. This phase begins when the narrative summary is forwarded by the local medical

evaluation board team to the physical evaluation board. The physical evaluation board will review the service member's narrative summary, medical records, Veterans Affairs evaluation, and the Commander's statement about the service member's performance and will determine if they meet fitness for duty standards. This process is completed at the centralized site without the service member present. One of the most influential documents in this review process is the Commander's statement as they provide important information about how the duty limitations and medical condition impact the service member's ability to perform their individual tasks and the unit's ability to complete their mission. In this statement, the service member's unit leader will provide feedback on how the injury or illness has impacted their occupational performance and ability to serve. A statement which talks positively about how the individual has overcome those challenges and continues to be able to perform key roles and responsibilities may influence the board to consider a determination of fit for service. In contrast, a statement that the service member's condition prevents them from being able to perform necessary duties needed for future service greatly influences the decision towards an unfit for continued service determination.

If the Physical Evaluation Board determines that all of the service member's condition is fit for continued duty, then the process is complete, and the service member is returned to duty. However, if any of their medical conditions are determined to not meet fitness for duty standards, then the service member's case is forwarded to the VA where it is sent to the Veterans Affairs Disability Evaluation System Rating Activity Site (D-RAS). This site applies the VA Schedule for Rating Disability (VASRD) to assign a disability rating for each condition [9]. It is important to note that ratings are impacted based on when the condition began (i.e., existed prior to service), if it was the direct result of combat service, and if the condition was aggravated during military service. Ratings can range from 0% to 100% and rise in increments of tens. Once D-RAS assigns the ratings, they are forwarded back to the Physical Evaluation Board which makes final determination on whether the service member will be medically retired or separated because of their conditions.

Separation without benefits occurs when the unfitting condition existed prior to service and was not aggravated by the individual's military service. This can only occur for those who served less than 8 years in the military. Separation with severance pay occurs for a service member who has served less than 20 years and is determined to have a less than 30% disability rating. The severance pay is based on a formula dependent upon the number of years served in the military. Medical retirement occurs for those who have served in the military for 20 or more years or are determined to have a disability rating of 30% or higher. These individuals will receive an enduring monthly retirement stipend dependent upon their base pay, years of service, and level of disability. Of note, while the VA assigns the rating levels, the military will only use the disability ratings assigned for those conditions found to be unfitting for continued service in their calculations to determine separation versus retirement. Additionally, it is important to note that the disability ratings do not combine in a simple addition formula. Both the VA and veteran advocacy sites have available calculators for determining the expected level of disability and

associated benefits based on the assigned ratings, as well as other factors including the veteran's marital status and number of dependents.

When this process is complete, the results are forwarded by the Physical Evaluation Board to the service member's Physical Evaluation Board Liaison Officer. The service member will review and can appeal. As before, the service member is afforded counsel with a lawyer if they desire. This stage ends when the service member approves their Physical Evaluation Board findings and ratings or has exhausted their appeals.

In our case, the service member suffered his injury while on active duty, during a combat deployment. His conditions were caused because he was performing his military duties and were not present before signing up for the military. The Physical Evaluation Board in review of his file notes his inability to perform his duties due to the chronic pain, limitations in the mobility of the damaged limb, and due to PTSD. As such, his case is handed to the VA Disability Rating Activity Site which reviews each condition and proposes a disability rating (from 0% to 100%) for each condition. The Physical Evaluation Board then uses the proposed disability ratings to determine whether a service member is Separated from service (disability rated as 0%, 10%, or 20%) with severance pay, or medical Retirement (disability rated at 30% or higher) which will give retirement pay and benefits. Our sergeant receives 50% for his limb damage, 30% for chronic pain, and 70% due to the severity of the PTSD, all conditions which were deemed to be unfitting for continued military service. His combined total rating is judged to be 90% (in accordance with VA Disability formulas).

Transition Phase

After concurring with the Physical Evaluation Board findings and Veterans Affairs disability ratings, the service member enters the transition phase. During this process, the service member either undergoes military retirement or separation. The local installation will generate the appropriate orders and the service member begins the process of clearing the installation and preparing for departure from the military including returning all required equipment, closing out evaluations, clearing housing, shipping household goods, etc. This phase is completed when the service member is officially out of the military.

Reintegration Phase

Upon departure from the military, the goal of the Integrated Disability Evaluation system is to ensure that the service member is a Veterans Affairs beneficiary within 1 month. This includes receiving their Veterans Affairs disability check and

integrated into the Veterans Affairs medical system for ongoing medical care. The liaison officer along with Veterans Affairs coordinators are integral to the success of this phase as they will ensure appointments are established with the local Veterans Affairs medical facility that services wherever the service member chooses to locate after departing the military.

It is important to note that some conditions may be deemed temporary versus permanently disabling. A designation of temporary may both the medical retirement and the disability rating as they may require reassessment to determine if the condition has stabilized, improved, or worsened which could result in a re-adjudication of the decision. Specifically, for those veterans who were separated for a mental disorder due to traumatic stress resulting in a disability rating of 50% or higher, they are required to have a reevaluation 6 months after discharge from the military to assess whether a change in evaluation is warranted [9].

Eligibility for Veterans Affairs Services and Disability Benefits

As previously mentioned, the majority of service members will leave the military through channels other than a medical separation or retirement. The overwhelming majority will leave with an honorable discharge upon completion of their contracted term of service. These veterans may still be eligible for healthcare and benefits through the Department of Veterans Affairs. In general, anyone who has served honorably for 24 continuous months on active duty since late 1980 or served in Vietnam between 1962 and 1975 is eligible for Veterans Affairs health benefits. More specific eligibility requirements can be found on the Department of Veterans Affairs website [10].

Additionally, veterans may have health conditions that present or worsen after they leave the military that are connected to their military service which may make them eligible for Veterans Affairs disability benefits. For example, those who had environmental exposures during Vietnam or the Persian Gulf War that were not realized to be toxic until years later or a veteran whose significant symptoms of PTSD did not present until after departure from the service. If a provider is caring for a veteran that is not linked in with the Department of Veterans Affairs, they are encouraged to refer the patient to the Veterans Affairs website to apply for health benefits and, if indicated, disability benefits. The web site provides the documentation requirements, necessary forms, and offers assistance services for completion. Access to these resources is not intended to replace other services or divert a patient's healthcare back in the Veterans Administration but rather to ensure that the full complement of benefits, services, and resources are available to patients. Additionally, there are disability resources available for a veteran's spouse and children which should may be of assistance to the family.

Key Considerations and Concerns

Clear, Concise Documentation

Along with documenting any duty limitations due to the medical condition, the provider must understand that the medical record is the document that is used to review all cases for determination of medical suitability and for decisions of disability. It is imperative that all providers use clinical language, in a clear and concise manner, to convey a patient's condition and prospects for recovery using objective data coupled to subjective symptom report. Symptoms, injuries, and data such as radiographs or other tests should support the diagnosis and drive a treatment plan that is appropriate over time.

> One example that meets the above criteria might be: "Patient with 5 weeks depressed mood, loss of desire for enjoyable activities (anhedonia), with sleep onset insomnia with multiple awakenings through the night most nights total sleep time 3–4 h on average. Additional symptoms of poor concentration with failure to achieve work deadlines, poor energy with missed workdays, and recurrent suicidal thinking without plan or intent to harm self. Symptoms occur daily, impair work completion, and have caused strain in his family relationships. Reports 2 negative military counselling statements over past week due to failure to complete service member duties on time or to standard, previously high performing with early promotion rate. Denies delusions, hallucinations, paranoia. Denies history of depression..."

The above subjective note portion clearly states symptoms and impact to function. When combined with the appropriate physical and mental exam results (objective), the full diagnosis (Major Depression, Single Episode, Severe, without psychotic features) and the treatment plan, they give anyone reading and reviewing the documentation much later an understanding of what that provider evaluated, and what was done to treat the condition. While viewed serially over time, these notes would accurately explain what diagnosis was treated, how those treatment affected the condition, and exactly what impact the condition had on the patient over time.

So, it is not just a good note that matters, it is good documentation consistently that is needed. Failure of clear and consistent medical documentation over the entirety of the treatment time is always the weakest link in the Disability Evaluation System, and often what causes a service member to be "in" the Disability Evaluation System process longer than should be needed. When any diagnosis is not properly supported by the symptoms in the note, it causes the Medical Evaluation Board evaluators to either guess at what you meant or downgrade your diagnosis. In the example above, if the provider only stated: "patient depressed for last 5 weeks, is sad, low energy" in the subjective portion it would not meet the diagnostic criteria for a major depressive episode and creates ambiguity and room for assumptions. Those in turn create more work for the provider to elaborate after the fact, more work for the Medical Evaluation Board physician attempting to search for data points due to inadequacies in the charting and usually increased wait time for the patient.

Chronic conditions that had their start while in military service but that were not captured in a disability evaluation will require a referral back to the Department of Veterans Affairs for determination of disability. For conditions such as this, clear documentation of the time of onset and chronicity of symptomology over time including functional limitations which have waxed or waned is extremely helpful to the veteran as they gather their medical records for submission to the Department of Veterans Affairs for a disability review. In these cases the veteran can apply for benefits and disability evaluation through the Veterans Affairs website or by visiting their local Veterans Affairs treatment center.

Fitness for Duty Standards

As previously mentioned, ultimately the decision on whether a service member is deemed medically capable of continuing to serve in the military is based on a determination of fitness for duty by a medical evaluation board and subsequently a physical evaluation board. This process starts when a service member's medical care reaches the medical retention determination point. To assist in both identifying this determination point and making the fitness for duty determination, the Department of Defense publishes the Department of Defense Instruction 6130.03, Volume 2—Medical Standards for Military Service: Retention [8]. This document outlines which conditions are not compatible with continued military service.

Specifically, for mental health disorders diagnosed using the fifth edition of the Diagnostics and Statistics Manual of Mental Disorders, the majority are evaluated on a case-by-case assessment of the persistent duty modifications required to reduce psychological stressors or enhance safety and the degree to which the condition impairs function to satisfactorily perform military duties commensurate with the service members rank and/or position. However, primary psychotic disorders and Bipolar I Disorder are immediate indicators for referral to the disability evaluation system.

Disability Ratings

As previously mentioned, disability ratings are issued by the Veterans Affairs Disability Evaluation System Rating Activity Site (D-RAS) applying the Veterans Affairs Schedule for Rating Disability (VASRD). These rating are impacted based on when the condition began (i.e., existed prior to service), if the condition was aggravated during military service, the ability of the service member to perform their military duties (level of occupational dysfunction), and the stability of the disabling condition. The ratings are not specific to any one diagnosis, but rather to the degree of disability that results from the condition and the origin of the disability [9].

One common misnomer is that a diagnosis of posttraumatic stress disorder is specifically needed to get a higher rating. This is generated by the requirement in the

disability rating scale to assign a rating of not less than 50% for those who develop a mental disorder while in service as a result of a highly stressful event that is severe enough to bring about the veteran's release from active military service (i.e. deemed to be an unfitting condition). The confusion arises that many interpret the highly stressful event to be a requirement for PTSD. In reality, any condition that resulted from a highly stressful event such as combat exposure including chronic adjustment disorder, depression, anxiety disorders, or PTSD will receive a minimum of 50% disability; however, if the service member has a diagnosis of PTSD associated with a traumatic event that occurred prior to military service or was not deemed to be an unfitting condition, then their disability percentage will be determined like all other mental health conditions based on the level of social and occupational dysfunction occurring from the condition [9].

System Design Concerns

The discussion of disability ratings leads to another recurrent issue for providers to be aware of. Certain medical conditions, including mental health disorders, may be reassessed by both the Department of Defense and the Department of Veterans Affairs at varying intervals. These evaluations may occur both with the military if they were placed on a temporary retirement status or with the VA if their condition was not determined to be permanent and required reassessment. This process incentivizes the patient to remain in the sick role and to not improve their medical condition. This has led to some criticisms of the current processes to imply that the increase in service members and veterans applying for disability is somehow abusing or taking advantage of the system [11]. While there is no evidence to support large-scale fraud or abuse, it does highlight this structural disadvantage and has led to a call by some, to include Department of Veterans Affairs leadership, to consider systematic changes that would focus on enhancing wellness [12]. In the interim, providers should believe service members and veterans unless they have specific reason to doubt. Future revisions and enhancements to the system will ideally look at how to address this concern.

In conclusion, the military and veteran disability systems can be complicated and frustrating, but they offer access to medical resources and benefits that can be vital to the support of our patients. Consider, in another chapter in this book there is a whole discussion about the challenges of homelessness in the veteran population and it includes multiple resources that are available to Veterans Affairs beneficiaries that a provider might include in their treatment plan. Therefore, it is essential when treating a military or veteran patient to understand this process and assess what avenues the patient has already pursued or should pursue. In addition, it is important that providers keep in perspective the importance of their documentation to include the clear, concise documentation of not only the condition, its origins and relation to military service, but also the limitations it places on the patient.

Clinical Pearls

- Veteran patients who have conditions that either developed as a result of their military service or were worsened in association with their military service may be eligible for Veterans Affairs disability benefits.
- The disability process is complex, occurring both in the military service and the Veterans Affairs systems concurrently. Encourage patients who are going through this process to take advantage of support resources including military provided legal advice and services provided by veteran service organizations.
- The goal for completion of the disability evaluation and separation from active service is 180 days, although the process often endures longer (as long as 1 year).
- Clear and concise documentation of symptomology which meets diagnostic criteria for the disorder, and discussion of functional limitations is very important for determination of disability status.
- Clear documentation of a timeline of onset of symptoms, and impact to function over time will assist a veteran in seeking disability evaluation for their condition from the Veterans Affairs if that did not occur during their active service time.

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