



Introduction

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

Form Last Revised: February, 2020

Who should prepare this form?

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

Who will ask the physician to complete this form?

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

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

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

What is the process associated with this form?

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

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

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

Presumptions: If the applicant is applying for disability retirement for a Heart, Lung or Cancer Presumption, please review the definitions on page 9 of this form regarding the Heart, Lung or Cancer Presumptions.

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

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

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

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2

Please return this form to:

Name of Retirement Board: Berkshire County

Address: 29 Dunham Mall

City/Town: Pittsfield

Zip Code: 01201

Telephone: (413) 499-1981

Fax: (413) 445-7990

Applicant Information:

			***_**_
Applicant's Last Name	First Name	M.I.	Social Security # (last four)

Former or Maiden Name (If different from above):

Street Address:

City/Town:

State:

Zip Code:

Phone Number:

Fax Number:

Email:

Type of Claimed Disability (Please check one):

Accidental

Ordinary

Either Accidental or Ordinary

Presumption

Physician's Statement

Applicant Last Name: _____

First Name: _____

SSN: ***-**-_____

Note to Physician:

As a physician who has been treating the above named applicant for his or her claimed disability, the retirement board will consider your analysis of the applicant's medical condition. Attention to this document will help you translate medical findings and opinions into language consistent with Massachusetts law, which in turn will help your patient with the process. All definitions are included on page 9.

Introduction:

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

Applications for Accidental Disability under the Heart, Lung or Cancer Presumption

- The physician submitting this form for a member who is applying for accidental disability benefits under the Heart, Lung or Cancer Presumption should note that certain conditions are presumed to be job-related if suffered by persons holding certain public safety positions. The physician should be aware that a higher level of certainty (higher than what a doctor typically refers to, i.e., reasonable degree of medical certainty) will be required to overcome or rebut a Presumption. Overcoming a Presumption requires a uniquely predominate non-work related influence.
- The Presumptions are found in Massachusetts General Laws, Chapter 32, Sections 94, 94A, and 94B; they are the Heart, Lung, and Cancer Presumptions. Please review the definitions and attached guides to completing these Presumptions before completing this form.

Manner of Submission

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

Physician's Statement

Applicant Last Name: _____

First Name: _____

SSN: ***-**-_____

Question #1 - Incapacity

■ Applicant's Date(s) of injury(ies) or exposure(s): _____

■ What are the applicant's medical diagnoses?

■ How long have you been treating this applicant? _____

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

■ Applicant's Job Title: _____

■ Were the job duties reviewed? YES NO

■ When was this applicant last able to perform his or her essential duties? _____

■ Are there any essential duties that cannot be performed by the applicant?

■ Are there any medical restrictions that prevent the applicant from performing the essential duties of their position?

Question 1 - Incapacity:

Is the applicant mentally or physically *incapable* of performing the essential duties of his or her particular job?

YES NO

Physician's Statement

Applicant Last Name: _____

First Name: _____

SSN: ***-**-_____

Question #2 - Permanency (Please refer to the attached Permanency Standard)

■ Has the condition(s) changed over time? YES NO

■ In the past 3 months? (If YES, please describe how below) YES NO

■ In the past year? (If YES, please describe how below) YES NO

■ Your assessment of anticipated natural course of the diagnoses
 Stable or plateau Likely to regress Likely to resolve

■ Has Maximum Medical Improvement (MMI) been reached? YES NO

Non-surgical therapeutic interventions and outcomes:

Medications: _____

PT: _____

Chiropractic: _____

Other: _____

Surgical interventions and outcomes:

Type of Surgery: _____ Date (mm/dd/yyyy): _____

Outcome: _____

Type of Surgery: _____ Date (mm/dd/yyyy): _____

Outcome: _____

Type of Surgery: _____ Date (mm/dd/yyyy): _____

Outcome: _____

Type of Surgery: _____ Date (mm/dd/yyyy): _____

Outcome: _____

Physician's StatementApplicant Last Name: First Name:

SSN: ***-**-____

Question #2 - Permanency (continued from previous page)

Pursuant to PERAC Regulation 840 CMR 10.04(1)(b) please answer the following questions:

- Is the nature of the condition or injury such that it can be expected to improve over a reasonable period of time? Please explain: YES NO

- Is the nature of the condition or injury such that it could be expected to improve if the applicant were willing to undergo reasonable medical treatment or rehabilitation? Please Explain: YES NO

Question 2 - Permanency:Is the condition for which the applicant seeks disability retirement likely to be *permanent*? YES NO

Complete question 3A if the applicant is filing an application for accidental disability *without a Presumption*.

Question #3A - Causation (Without a Presumption)

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

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

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

Question 3A - Causation Without Presumptions:Is said incapacity such as might be the natural and proximate result of the claimed personal injury sustained or hazard undergone while in the performance of the applicant's duties? YES NO

Physician's Statement

Applicant Last Name: _____

First Name: _____

SSN: ***-**-_____

Complete question 3B if the member is filing an application for accidental disability ***under the Heart, Lung or Cancer Presumption.***

Question #3B - Causation (With a Presumption)

A presumption can be rebutted only by documentation of a uniquely predominant influence that shows the disability is not job-related or caused by a non-service connected accident or hazard.

If there is no evidence of such influence then you must answer **YES**. If there is such influence, you must answer **NO** to the question below.

Question 3B - Causation With Presumptions:

- For this particular applicant, is there any evidence of a uniquely pre-dominant non-service connected influence on his/her mental or physical condition which cause his/her incapacity? YES NO

- For this particular applicant, is there any evidence of a non-service connected accident or hazard which caused his/her incapacity? YES NO

If you answer **YES** to either of these questions, please explain the uniquely predominant influence or non-service connected accident which brings you to this conclusion:

Physician's StatementApplicant Last Name: First Name:

SSN: ***-**-____

Physician's Certification**Physician Information:**Name: Street Address: City/Town: State: Zip Code: Phone Number: Fax Number: I am certified to practice medicine in:

(List All States That Apply)

Medical License Number: Date issued (mm/dd/yyyy): License Issued By (State): Medical Specialty: **Physician Signature:**

I, the undersigned physician, understand that has applied for disability retirement pursuant to the provisions of Massachusetts General Laws, Chapter 32.

I have knowledge of the pertinent facts of this patient's case as described.

I certify that I have read and understand the information contained in this statement, and subscribe, under the penalties of perjury, that the information I have supplied in this statement and in my medical reports (if applicable) is true, complete, and correct to the best of my knowledge.

 M.D.

Signature

Date

Definition of Terms:

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

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

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

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." *Filipek v. Bristol County Retirement Board*, CR-03-672 (CRAB 12/23/04). This risk of re-injury has to reasonably be expected to involve a substantial harm.

Last Date of Service The Contributory Retirement Appeal Board (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 last performed their job duties. *Vest v. Contributory Retirement Appeals Board*, 41 Mass. App. Ct. 191, 194 (1996).

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

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 Presumption (Massachusetts General Law, Chapter 32, Section 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 Presumption (Massachusetts General Law, Chapter 32, Section 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 (Massachusetts General Law, Chapter 32, Section 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 qualified fire fighters or public safety employees. 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 discovered, must have regularly responded to fires during some portion of his/her service, and must discover or should have discovered cancer within five years of the last date of his/her active service. 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.

