



Attorney-Client

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03410

Attorney-Client

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The authority and title on his medical continuation (MEDCON) order be corrected to 10 U.S.C. Section 12301(h).

APPLICANT'S CONTENTIONS

His MEDCON order was published under the authority and title, 10 U.S.C. 12322. This authority does not allow this period of active duty to be counted as active duty time qualified for an early retirement under the Reduced Retired Pay Age (RRPA) program. While serving on active duty, he was severely injured which resulted in failed back surgery, deep venous thrombosis (DVT), and a pulmonary embolism. He was unable to continue work in the military and is now 100 percent disabled. By using 10 U.S.C. Section 12301(h), activation medical hold, he would get credit for almost two years towards an early retirement.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a medically retired Air Force Reserve (AFR) master sergeant (E-7).

On 6 Mar 18, AF Form 938, *Request and Authorization for Active Duty Training/Active Duty Tour*, indicates the applicant was ordered to annual training for five days for the period of 19 Mar 18 through 23 Mar 18.

Dated 31 Jul 18, AF Form 348, *Line of Duty Determination*, indicates the applicant injured his lower back on 19 Mar 18 while he was on orders for the period of 19 Mar 18 through 23 Mar 18. On 13 May 19, the Approving Authority found his injury in the line of duty (ILOD).

On 12 Nov 19, AF Form 938 indicates the applicant was on medical hold under the authority 10 U.S.C. 12322 from 14 Nov 19 through 8 May 20. He was continued on MEDCON orders until 23 Jul 21 (subsequent orders provided by the applicant).

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Dated 19 Feb 20, AF Form 348 indicates the applicant suffered from an acute embolism and thrombosis of the right popliteal vein due to his 20 Mar 18 back surgery while on MEDCON orders.

On 7 May 21, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to his medical conditions of recurrent venous thromboembolism (DVT and pulmonary embolus) at 60 percent, lumbar spine intervertebral disc syndrome at 40 percent, and right and left lower extremity radiculopathy, sciatic nerve at 20 percent each, with a combined disability compensation rating of 90 percent with a recommendation of "Permanent Retirement." It was noted he had a prior history of lower back pain but in Mar 18, had an acute onset of lower back pain while lifting an aircraft boarding ladder.

Dated 24 May 21, Special Order Attorney-Client indicates the applicant was permanently disability retired in the grade of master sergeant with a compensable percentage for physical disability of 90 percent, effective 28 Jul 21.

For more information, see the excerpt of the applicant's record at Exhibit B.

APPLICABLE AUTHORITY/GUIDANCE

Per 10 U.S.C. Section 12322, *Active duty for health care*, a member of a uniformed service described in paragraph (1)(B) or (2)(B) of section 1074a(a) of this title may be ordered to active duty, and a member of a uniformed service described in paragraph (1)(A) or (2)(A) of such section may be continued on active duty, for a period of more than 30 days while the member is being treated for (or recovering from) an injury, illness, or disease incurred or aggravated in the line of duty as described in any of such paragraphs. Section 1074a of this title, *Medical and dental care: members on duty other than active duty for a period of more than 30 days*, states under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b): each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing active duty for a period of 30 days or less; inactive-duty training; or service on funeral honors duty under section 12503 of this title or section 115 of title 32. Each member of a uniformed service who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member is to perform or has performed active duty for a period of 30 days or less; inactive-duty training; or service on funeral honors duty under section 12503 of this title or section 115 of title 32.

Per 10 U.S.C. Section 12301(h), when authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty to receive authorized medical care; to be medically evaluated for disability or other purposes; or to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member. A member ordered to active duty under this subsection may, with the member's consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law. This authority is used

for each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing active duty for more than 30 days.

Per DoDI 1215.07, *Service Credit for Non-Regular Retirement*, Enclosure 3, paragraph 5, *Reduced Eligibility Age for Receipt of Retired Pay for Non-Regular Service*, a member of the Ready Reserve who serves on active duty or performs active service will have the eligibility age for receipt of retired pay reduced below 60 years of age by 3 months for each aggregate of 90 days for which the Service member serves on active duty or performs active service in any fiscal year within the timeframes specified. A day of active duty or active service will be included in only one aggregate of 90 days, and the qualifying active service will be defined as:

(4) An order to active duty pursuant to section 12301(h) to receive medical care as a result of a wound, illness, or injury while serving on active service will be treated as a continuation of the original call or order to active duty or active service for the purpose of reducing the eligibility age for a non-regular retirement.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board finds the applicant's MEDCON orders were published under the correct authority, 10 U.S.C. Section 12322. He was injured while on a five-day annual training order and was subsequently put on MEDCON orders due to his ILOD injury while performing active duty for a period of 30 days or less. In order to qualify for MEDCON orders under 10 U.S.C. Section 12301(h) he would have had to incur or aggravate his injury while on orders of more than 31 days in length. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-03410 in Executive Session on 18 Jul 25:

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Panel Chair

Attorney-Client

Panel Member

Attorney-Client

Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 18 Sep 24.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

7/23/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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