



**CUI//SP-MIL/SP-PRVCY**

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-01620

*Attorney-Client*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

His medical records be corrected to remove the statement "no loss of consciousness" on the memorandum from the 90 MDG/SGOFR dated 10 Mar 11.

**APPLICANT'S CONTENTIONS**

The error was discovered on 1 Jun 20 when the Department of Veterans Affairs (DVA) lowered his Traumatic Brain Injury (TBI) from 40 percent to 10 percent. This rating decrease was due to an error in his medical records stating "no loss of consciousness." He fell down some dormitory stairs, struck his head, and lost consciousness. In the emergency room (ER) report, it is noted he experienced a loss of consciousness for an unknown period of time accompanied by headaches and an injury to his left shoulder and elbow. The document in question, the Potentially Disqualifying Information (PDI) memorandum erroneously states "He was diagnosed with a mild head injury/scalp contusion (no loss consciousness), neck sprain, and left shoulder sprain." The individual that signed this memorandum was not present during the accident nor at the ER. To support his request, the applicant submitted the PDI Memorandum needing a correction, the medical records from the ER visit, a statement from a witness present during the accident, and photos from the accident.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force senior airman (E-4).

Dated 7 Mar 11, the applicant submitted a report from the local Regional Medical Center which stated "associated signs and symptoms: loss of consciousness: this patient experienced a loss of consciousness, for an unknown period of time." The Medical Group Personnel Reliability Program (PRP) consultant made a hand written note on 10 Mar 11 stating "discussed with member at return to duty (RTD) and he denied any loss of consciousness for the injuries. PDI passed."

Dated 10 Mar 11, the applicant submitted a PDI memorandum from the Medical Group PRP consultant stating "no loss consciousness" and is not recommended for PRP duties.

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Controlled by: SAF/MRB  
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Limited Dissemination Control: N/A  
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On 14 Aug 13, AF Form 286A, *Personnel Reliability Program (PRP) Permanent Disqualification/Decertification Action*, indicates the applicant was permanently disqualified/decertified from the PRP due to the 9 Aug 13 SF 600, *Chronological Medical Record*. It was also noted in Section V, *Remarks*, the applicant was temporarily decertified from PRP based on a medial narrative dated 25 Mar 13.

On 30 Jun 14, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of senior airman (E-4) after serving 4 years, 6 months, and 16 days of active duty. He was discharged, with a narrative reason for separation of "Miscellaneous General Reasons."

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

### **APPLICABLE AUTHORITY/GUIDANCE**

Per AFMAN 41-210, *Tricare Operations And Patient Administration* para 5.3 states in part that patients have the right, under HIPAA and the Privacy Act, to access their health records and request amendment if they think the documentation is in error. Request to amend any part of the health record (electronic or paper) must be made in writing and be signed by the patient or authorized representative. Patients who believe their medical records contain erroneous entries or information have several options to remedy perceived errors. Several instructions, such as AFI 33-332, *Air Force Privacy and Civil Liberties Program* and AFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, allow patients to seek relief when they believe their medical records should be amended and the Military Treatment Facility (MTF) has denied their requests.

### **AIR FORCE EVALUATION**

An email from the Attome... Medical Group recommends denying the application finding no proof of an error or injustice. A review of the records was conducted and concerns were found with removing or altering the medical documentation. From the review of the medical records, it appears that the Physician's Assistant (PA) wrote his PDI Memorandum based on a conversation he had with the applicant. On page 8 of his application (the local Regional Medical Center ER Physician Documentation), the PA wrote in: "discussed with member at RTD and he denied any loss of consciousness. PDI passed for injuries." He then stamped, dated, and signed this documentation.

In medicine, providers are often required to clarify parts of medical documentation with patients and make medical decisions based on that clarification. In this case, it appears the PA reviewed the Emergency Record from the local Regional Medical Center and asked the patient to clarify if he actually experienced loss of consciousness. Whatever conversation they had; the PA then interpreted the answer as the applicant denying any loss of consciousness. He then documented this conversation and drafted his PDI Memorandum based on this information. Regardless of whether the applicant experienced loss of consciousness, there is no proof the provider was false in documenting what was said to him. Of course, it is possible the provider misunderstood the

answer; however, it is equally possible the applicant was confused when answering this question or even told the provider false information for some other secondary gain (such as returning to duty). Either way, it is irresponsible to change the medical documentation without proof of that conversation.

The complete advisory opinion is at Exhibit C.

**APPLICANT’S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 1 Mar 23 for comment (Exhibit D), but has received no response.

**FINDINGS AND CONCLUSION**

1. The application was not 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 concurs with the rationale and recommendation of the Attorn... Medical Group and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Specifically, the Board notes concerns with altering the applicant’s medical records due to the unknown nature/context of the discussion with the PA when making a return to duty decision as the applicant was not decertified from the PRP at that time. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant’s records.

**RECOMMENDATION**

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 the Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2022-01620 in Executive Session on 22 Mar 23 and 2 Apr 23:

Attorney-Client	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 27 Aug 20.

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

Exhibit C: Advisory Opinion Email, 90 MDG, dated 1 Mar 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Mar 23.

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.

11/30/2023

*Attorney-Client*

Board Operations Manager, AFBCMR

Signed by:

*Attorney-Client*