

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 23 January 2024

DOCKET NUMBER: AR20230003705

APPLICANT REQUESTS: in effect, his Date of Rank (DOR) to captain (CPT)/O-3 be changed from 30 January 2023 to 13 May 2022.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Special Orders Number 12, 15 January 2019
- University of Arizona Doctor of Medicine Degree, 13 May 2022
- DD Form 2808 (Report of Medical Examination), 26 August 2022
- National Guard Bureau (NGB) Form 89 (Proceedings of a Federal Recognition (FEDREC) Examining Board), 30 January 2023
- DA Form 71 (Oath of Office - Military Personnel), 30 January 2023
- NGB Form 337 (Oaths of Office), 30 January 2023
- Email communication(s), January 2022 - February 2023
- Orders Number 0004122667.00, 2 March 2023
- Orders Number 0004143695.00, 6 March 2023
- DA Form 5074-1-R (Record of Award of Entry Grade Credit (Health Services Officers)), 11 August 2023
- Special Orders Number 267 AR, 14 August 2023

FACTS:

1. The applicant states:

a. His CPT DOR is currently 30 January 2023. However, as a CPT in the Medical Corps, he believes his DOR should be backdated to the date that he became a physician/graduated medical school, which was 13 May 2022.

b. According to the FEDREC authority that allowed him to commission as a second lieutenant (2LT) into the Medical Service Corps, he should be promotable to CPT on the day of graduation from medical school. By similar authority, non-prior service applicants who are physicians receive creditable service for their years of being a physician, dated to the time of medical school graduation.

c. The State of Arizona went through a delayed process to separate him and then re-access into the Medical Corps, which resulted in him holding the rank of 2LT for 55 months and receiving a CPT DOR nearly 9 months after he became a physician. Even when told he had to submit a packet for separation and recommissioning, emails regarding the matter went unanswered for months. This delay in DOR is unjust because as stated above, any non-prior service applicant or an officer receiving a medical degree through the Health Professions Scholarship Program/Uniformed Services University of Health Sciences is awarded the rank/grade of CPT/O-3 effective their graduation date from medical school.

2. A review of the applicant's military records show the following:

a. Having had prior enlisted service in the Arizona Army National Guard (AZARNG), DA Form 71 shows the applicant executed an oath of office on 28 June 2018 and was appointed as a Reserve commission officer.

b. On 4 July 2018, NGB Form 22 (Report of Separation and Record of Service) shows he was honorably discharged from his enlisted status in the AZARNG for appointment as a commissioned officer.

c. On 5 July 2018 –

- NGB Form 89 shows a FEDREC Examining Board recommended he be granted FEDREC for appointment in the rank/grade of 2LT/O-1 in the Medical Service Corps
- NGB Form 337 shows he executed an oath of office and was appointed as a 2LT in the AZARNG and granted temporary FEDREC

d. On 20 July 2018, Joint Force Headquarters AZARNG published Orders Number 201-604, which appointed the applicant as a 2LT in the AZARNG, in the Medical Service Corps, effective 5 July 2018.

e. On 3 July 2020, he successfully completed the Army Medical Department Direct Commission Course.

f. On 13 May 2022, the applicant was awarded his Doctor of Medicine degree from the University of Arizona.

g. 30 January 2023 – DA Form 71 shows the applicant executed an oath of office and was appointed as a Reserve CPT/O-3 and NGB Form 337 shows he executed an oath of office and was appointed as a CPT in the AZARNG and granted temporary FEDREC

h. On 2 March 2023, the AZARNG published Orders Number 0004122667.00, which separated the applicant in the rank of 2LT, effective 29 January 2023.

i. On 6 March 2023, the AZARNG published Order Number 0004143695.00, which rehired the applicant in the rank of CPT, effective 30 January 2023. The orders show his CPT rank and grade entry date as 30 January 2023.

j. On 14 August 2023, the NGB issued a memorandum informing the applicant that he was appointed as a CPT in the Reserve in the Medical Corps on 30 January 2023.

3. In support of his case, the applicant provides:

a. Special Orders Number 12, dated 15 January 2019, published by the NGB, which extended FEDREC in the ARNG to the applicant for initial appointment as a 2LT in the Medical Services Corps, effective on with a DOR of 5 July 2018.

b. DD Form 2808 dated 26 August 2022, which shows the applicant underwent a medical examination and was qualified for service.

c. NGB Form 89 dated 30 January 2023, which shows a FEDREC Examining Board recommended he be granted FEDREC for appointment as a CPT/O-3 in the Medical Corps.

d. Email communication(s) during the period of January 2022 - February 2023, discussing his packet for appointment and the delay of responses. In February 2023, the ARNG Advisor from the U.S. Army Medical Center of Excellence reached out to the applicant who notified him that the AZARNG should be reappointing him immediately as he did not need any letters of recommendations, no new physicals, and other additional information that was requested. He also referred the applicant to the Army Board for Correction of Military Records (ABCMR) to get his CPT DOR backdated.

e. DA Form 5074-1-R prepared and approved on 11 August 2023, which shows he was awarded 4 years, 4 months, and 8 days total constructive and entry grade credit, which qualified him for the rank/grade of CPT/O-3, with a DOR of 22 September 2022. His date of entry on active duty is shown as 30 January 2023. The applicant was awarded 4 years credit for his Doctor of Medicine degree and 4 months and 8 days credit for his professional experience.

f. Special Orders Number 267 AR, dated 14 August 2023, published by NGB, which extended FEDREC in the ARNG to the applicant for initial appointment as a CPT in the Medical Corps, effective 30 January 2023, with a DOR of 22 September 2022.

4. On 20 September 2023, the NGB, provided an advisory opinion for this case and recommended approval. The Chief, Special Actions Branch stated:

a. The applicant's records show that he was initially appointed as a 2LT on 5 July 2018 in the Medical Service Corps. He attended University of Arizona College of Medicine Phoenix and graduated on 13 May 2022. According to the applicant, the FEDREC authority that allowed him to commission as a 2LT into the Medical Service Corps should allow him to be promoted to CPT on the day of graduation from medical school. By similar authority, non-prior service applicants who are physicians receive creditable service for their years of being a physician, dated to the time of medical school graduation. The Arizona Army National Guard delayed the process to separate the applicant from Medical Service Corps and then re-access him into the Medical Corps, which resulted in him holding the rank of 2LT for 55 months and receiving a DOR of CPT nearly 9 months after becoming a physician.

b. According to Department of Defense Instruction (DoDI) 6000.13 (Accession and Retention Policies, Programs, and Incentives for Military Health Professions Officers), any non-prior service applicant or an officer receiving a medical degree through the Health Professions Scholarship Program/Uniformed Services University of Health Sciences is awarded the rank/grade of CPT/O-3 effective their graduation date from medical school. In paragraph 11.c.(1) and (c).2, it states that the student will be reappointed based on their health profession (meaning what their residency (PGY-1 or postgraduate year one) contract states).

c. For these reasons, it is the recommendation of this office that the applicant's request be approved. Based on the applicant's records and available evidence, the AZARNG failed to process his reappointment in a timely manner, despite his diligence in reaching out to the specialty branch recruiter. The ARNG Advisor from the U.S. Army Medical Center of Excellence advised the AZARNG to reappoint the applicant as a CPT in the Medical Corps and suggested that the applicant submit a request to the ABCMR to correct his DOR. The AZARNG also supports this request as they have acknowledged their failure to process the packet correctly and in a timely manner. The ARNG Officer Policy Branch and the AZARNG concurs with this recommendation.

5. On 21 September 2023, the applicant was provided a copy of the NGB advisory opinion for comments or rebuttal. He did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant as initially appointed as a 2LT on 5 July 2018 in the

Medical Service Corps (MSC). He was awarded his Doctor of Medicine degree from the University of Arizona on 13 May 2022. The Board noted that according to DoDI 6000.13, a non-prior service applicant or an officer receiving a medical degree through the Health Professions Scholarship Program/Uniformed Services University of Health Sciences is awarded the rank/grade of CPT/O-3 effective their graduation date from medical school. The student will be reappointed based on their health profession. The applicant graduated on 13 May 2022. The Board reviewed and agreed with the NGB advisory opinion that the State ARNG failed to process his reappointment in a timely manner, despite the applicant’s diligence in reaching out to the specialty branch recruiter. The Board determined an error and an injustice occurred and relief is warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected by amending Special Orders Number 267 AR, published by NGB on 14 August 2023, to show he was extended FEDREC in the ARNG for initial appointment as a CPT in the Medical Corps, effective 13 May 2022.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. DoDI 6000.13 (Accession and Retention Policies, Programs, and Incentives for Military Health Professions Officers (HPOs)) states, in pertinent part:

a. A prospective HPO's entry grade and rank within grade will be determined by the number of years of entry grade credit awarded on original appointment, designation, or assignment as an HPO. This section does not apply to the original appointment of officers transferring between Services or between components of a Service pursuant to DoDI 1300.04 (Reference (m)) or DoDI 1205.05 (Reference (n)), except as provided in those instructions.

b. This credit (constructive service credit) is awarded to a person who begins commissioned service after obtaining the additional education, training, or experience required for appointment, designation, or assignment as an HPO. The designation will be to the same grade and DOR comparable to that attained by officers who begin commissioned service after getting a baccalaureate degree and serve for the period of time it would take to obtain the additional education. Constructive service credit will only be used to determine initial grade, rank in grade, and service in grade for promotion eligibility.

c. One year of constructive service credit will be granted for each year of graduate level education toward the first professional degree completed when that degree is required for appointment in the professional specialty being entered. The maximum number of years of constructive service credit that may be awarded under this provision is the number of years of graduate level education required by a majority of institutions that award degrees in that professional field. The Secretary concerned may direct that doctors of medicine (M.D.) be given sufficient constructive service credit to allow appointment to the grade of O-3 in a Regular or Reserve Component.

d. A former regular or Reserve commissioned officer may, if otherwise qualified, be appointed or reappointed as a Reserve officer. If so appointed, the person may be: (1) Placed on the Reserve active status list of a Reserve Component of the Army, Navy, or Air Force in the grade equivalent to the permanent regular or Reserve grade and in the same competitive category in which the person previously served satisfactorily on AD or in an active status; and (2) Credited, for determining date of rank pursuant to section 741(d) of Reference (d), with service in grade equal to that held by that person when discharged or separated.

e. When a Reserve commissioned officer is transferred from an inactive status to an active status and placed on the AD list or the Reserve active status list, the Secretary concerned may, effective on the date the officer is placed on either list, change the officer's date of rank to a later date to reflect such officer's qualifications and

experience, in accordance with section 741 of Reference (d). The Secretary concerned does not have the authority to change the date of rank of a Reserve commissioned officer who has served continuously in the Selected Reserve since the officer's last promotion or is placed on the AD list while on a promotion list, pursuant to section 14317(b) of Reference (d).

2. DoDI 1310.01 (Rank and Seniority of Commissioned Officers) states the Secretary of the Military Department concerned may adjust the DOR of an officer, except a general or flag officer, appointed to a higher grade under Title 10, USC, sections 624(a) or 14308(a) if the appointment of that officer to the higher grade is delayed by unusual circumstances. The Secretary of the Military Department concerned must determine that the unusual circumstance caused an unintended delay in processing or approval of the selection board report or promotion list in order for an officer's DOR to be adjusted.

//NOTHING FOLLOWS//