

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 October 2024

DOCKET NUMBER: AR20240000399

APPLICANT REQUESTS:

- adjustment of his date of rank to the rank and grade of first lieutenant (1LT)/O-2 to 17 September 2020 from 11 January 2023
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 71 (Oath of Office – Military Personnel), dated 18 March 2019
- DA Form 5074-1-R (Record of Award of Entry Grade Credit (Health Service Officers)), 25 April 2019
- Headquarters, U.S. Army Recruiting Command (USAREC) memorandum, subject: Recommendation for Reserve of the Army Appointment, 25 April 2019
- Statement for Commissioning Army Medical Department (AMEDD) Officer United States Army - Active Duty, 27 March 2023
- DA Form 5074-1-R, 11 April 2023
- DA Form 71, 21 August 2023
- U.S. Army Human Resources Command (AHRC) Orders Number 304-003, 31 October 2023

FACTS:

1. The applicant states:

a. He completed a direct commission in March 2019 (area of concentration (AOC) 70B, Medical Service Corps). After serving in the U.S. Army Reserve (USAR) as an officer from 2019-2023, he decided to return to active duty. He completed another oath of office and was directly commissioned into the Regular Army (AOC 65A, Medical Specialist Corps). His contract states he would retain the rank of 1LT, and no information was provided about the loss of time in grade. He was promoted to 1LT in September 2020 and should be eligible for promotion to captain (CPT) based on date of rank and time in grade. Upon reentry into active duty in August Aug 2023, he received a

date of rank adjustment to 11 January 2023 (1LT promotion). This adjustment has shifted his promotion eligibility as he has lost time in grade.

b. The agreement to trade three years of time in and grade and delay his promotion to CPT by another two years was never discussed between the AMEDD recruiter and himself, nor legally stated in his contract. Failure to disclose this information is intentional deception. He already completed his company command and executive officer time. He has over 18 years of military service, including multiple combat tours, and he served in various leadership positions. This is the first time in 18 years he felt deceived by military service members. He returned to active duty to provide medical support to Soldiers and family members; however, losing three years of time in grade and sacrificing his promotion eligibility was not agreed upon. The original date of rank to 1LT was adjusted from September 2020 to January 2023. This loss of time in grade and promotion eligibility was not documented in the original contract nor verbally discussed between the AMEDD recruiter and himself.

2. Following enlisted service in the U.S. Marine Corps and in the USAR, the applicant was appointed as a Reserve commissioned officer in the rank and grade of second lieutenant/O-1 on 18 March 2019.

3. The applicant completed the Basic Officer Leader Course (BOLC), which he attended from 9 October to 20 December 2019. He was promoted to the rank and grade of 1LT/O-2 with an effective date and date of rank of 17 September 2020.

4. The applicant signed his Statement for Commissioning AMEDD Officer United States Army-Active Duty on 27 March 2023.

5. A DA Form 5074-1-R, dated 11 April 2023, shows he was granted 2 years of constructive service credit for his Master of Science (MS) in Occupational Therapy and 1 month and 7 days for his prior active service for a total of 2 years, 1 month, and 7 days of constructive service credit.

6. The applicant executed an oath of office in the Regular Army in the rank of 1LT, Medical Specialist Corps, on 21 August 2023.

7. AHRC Orders Number 304-003, dated 31 October 2023, adjusted the applicant's date of rank to 1LT to 11 January 2023.

8. During the processing of this case, an advisory opinion was obtained from Headquarters, USAREC, Director of Health Services. It states:

a. The application and military recruiting records of the applicant were reviewed. It is the opinion of Health Services Directorate, USAREC Headquarters, that the total entry

credit awarded on the DA Form 5074-R (Record of Award of Entry Grade Credit (Medical and Dental Officers)) is accurate, and in turn, the adjusted date of rank is accurate. His application for direct commission as a Medical Specialist Corps (SP), 65A Occupational Therapist, was considered at the 19 April 2022 USAREC AMEDD Selection Board. Result: Board Select.

(1) He originally signed his Army contract on 27 March 2023.

(2) He was originally awarded 2 years, 1 month, and 7 days constructive credit per the DA Form 5074-1-R dated 11 April 2023, qualifying him for the rank/grade of 1LT/O-2.

(3) He direct reported to Fort Jackson, SC on 21 August 2023. He was administered a 1LT, SP Regular Army Oath of Office, effective 21 August 2023.

b. Constructive credit is calculated based on military experience, qualifying education, and professional work experience in accordance with Department of Defense Instruction (DODI) 6000.13 (Accession and Retention Policies, Programs, and Incentives for Military Health Professions Officers) guidance, policies, and instructions.

c. Military Experience: The applicant has prior enlisted service in the U.S. Marine Corps (12 November 2002 – 03 October 2011) and prior commissioned service as a Health Service Administration Officer (70B) in the USAR (1 October 2013 – 20 August 2023). He has prior active federal commissioned service in which he attended AMEDD BOLC (9 October 2019 – 22 December 2019). Consistent with DODI 6000.13, constructive service credit is not awarded for enlisted military service nor for USAR experience if not serving in the profession to which they are being appointed. One-half day of credit will be awarded for active commissioned service as a commissioned officer not in the profession in which the person is being appointed. The applicant will receive 0 years, 1 month, and 7 days of credit for his BOLC attendance.

d. Qualifying Education: The applicant obtained his qualifying degree (MS in Occupational Therapy) for the AOC 65A Occupational Therapist on 16 December 2022 from [REDACTED]. He is eligible for 2 years constructive credit for the MS degree.

e. c. Professional Work Experience: The applicant did not have documented, licensed work experience for consideration at the 19 April 2022 USAREC AMEDD Selection Board.

(1) On 23 March 2023, he obtained [REDACTED] Occupational Therapy, license Registered [REDACTED].

(2) Dates eligible to receive one-half day credit for every day of professional work experience are calculated from the applicant's curriculum vitae (CV) and the USAREC Direct Commissioning Application (DCA) employment history. The original DA Form 5074-1-R provided no constructive service credit for professional work experience because his CV and employment history in DCA indicated he was unemployed.

f. Recommendation: Constructive service credit to remain the same on the DA Form 5074-R. Total Constructive Service Credit = 2 years, 1 month, 7 days, qualifying him for the rank and grade 1LT/O-2. The constructive credit in excess of that required for 1LT/O-2 is 7 months, 7 days which is consistent with the adjusted date of rank. The recruiter concern has been referred to the Medical Recruiting Brigade leadership for action and training.

9. The USAREC advisory opinion was provided to the applicant and given the opportunity to provide additional evidence or comments. No response was received.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and U.S. Army Recruiting Command (USAREC) advisory opinion, the Board concurs with the advising official recommendation for disapproval of adjustment of the applicant's date of rank to the rank and grade of first lieutenant (1LT)/O-2 to 17 September 2020 from 11 January 2023.

2. In addition, the opine noted that the applicant's prior enlisted service in the U.S. Marine Corps and commissioned service as a Health Service Administration Officer in the USAR do not qualify for additional constructive credit, as DODI 6000.13 does not grant credit for enlisted service or for USAR experience if not serving in the profession to which the applicant is being appointed. Evidence shows the applicant was awarded 0 years, 1 month, and 7 days of credit for attending AMEDD BOLC. Furthermore, the Board determined constructive credit is calculated based on military experience, qualifying education, and professional work experience per Department of Defense Instruction (DODI) 6000.13. The Board found that the total entry credit awarded on the applicant's DA Form 5074-R is accurate and that the adjusted date of rank is appropriately calculated.

3. The Board agreed the applicant received 2 years of constructive credit for earning an MS in Occupational Therapy. However, at the time of the 19 April 2022 USAREC

AMEDD Selection Board, the applicant did not have documented, licensed professional work experience to warrant additional credit. Although he obtained his occupational therapy license on 23 March 2023, the original DA Form 5074-1-R did not grant constructive service credit for professional work experience due to the applicant's CV and employment history in DCA indicating unemployment. Based on the advisory opinion and applicable regulatory guidance, the Board determined that no further constructive credit is warranted beyond the 2 years, 1 month, and 7 days already awarded, which qualifies the applicant for the rank and grade of 1LT/O-2. As such, the Board denied relief.

4. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.



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. Department of Defense Instruction 6000.13 (Accession and Retention Policies, Programs, and Incentives for Military Health Professions Officers) provides that 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 a Health Professions Officer. The designation will be to the same grade and date of rank 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.

a. 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.

b. Credit for master's and doctorate degrees in a health profession may be awarded based on actual full-time equivalent education of up to 2 years for a master's degree and up to 4 years for a doctorate degree. Credit may not include time spent in attainment of baccalaureate or other lower degrees.

c. Additional day-for-day credit will be granted for the successful completion of post-baccalaureate internship, residency, fellowship, or equivalent graduate, medical, dental, or other formal health professions training required by the Military Department concerned. This credit may not exceed 1 year unless such graduate-level training or experience in excess of 1 year is required for certification in a specialty required by the Military Department concerned, in which case the additional day-for-day credit will be granted for the period required for certification.

d. The Secretary concerned may grant additional credit in unusual cases based on special experience in a particular field. The amount of credit will be 1 year for each year of special experience.

2. Army Regulation 600-8-29 (Officer Promotions) provides that constructive service credit and prior service credit awarded in lieu of constructive service credit is recorded on DA Form 5074-1-R (Record of Award of Entry Grade Credit (Health Services Officer)) for AMEDD officers other than Medical or Dental Corps officers.

3. Army Regulation 135-101 (Appointment of Reserve Commissioned Officers for Assignment to the Army Medical Department Branches) Chapter 3 (Grade Determination) provides that grade and date of rank upon original appointment and assignment to an AMEDD branch will be determined by the number of years of entry grade credit awarded. Except as limited by maximum credit limits, entry grade credit granted will be the sum of constructive service credit and credit for prior active commissioned service. Entry grade credit awarded to AMEDD officers upon-appointment or assignment will be recorded on DA Form 5074-R (Record of Award of Entry Grade Credit (Medical and Dental Officers)). Constructive service credit will be granted for periods of professional training and experience accrued after receipt of the basic qualifying degree.

4. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) provides Department of the Army policy, criteria, and administrative instructions regarding an applicant's request for the correction of a military record. Paragraph 2-11 states applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//