

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 December 2024

DOCKET NUMBER: AR20240002290

APPLICANT REQUESTS: adjustment of commissioned rank to reflect lieutenant colonel (LTC)/O-5 rather than major (MAJ)/O-4 based upon the award of 6 additional years of constructive service credit.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 67-10-2 (Field Grade Plate (O4-O5; CW3-CW5) Officer Evaluation Report), 17 September 2023
- Request for Army Medical Department (AMEDD) Professional Qualification Evaluation, 7 February 2024
- Curriculum Vitae

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states in pertinent part that he was appointed a commission on 7 August 2020 at the rank of MAJ. He contests that he is a licensed and board-certified Internal Medicine Physician with 26 years of experience (licensed in 1997). At the time of appointment, he was not aware of the waiver process whereby persons could be awarded additional constructive service credit. An Army Medical Department (AMEDD) Program Manager recently reviewed his records and further recommended he be awarded 6 additional years of constructive service credit thereby changing his rank at the time of appointment to reflect LTC vs. MAJ. At the time of his appointment, he had been practicing for 23 years.
3. On or about 24 May 1994, the applicant's Doctor of Medicine degree was conferred by the New York Medical College.

2. On 7 August 2020, the applicant was appointed a Reserve commission as a 61F (Internist) at the rank of MAJ and assigned to a Troop Program Unit. At the time of his commission, the applicant was credited with 10 years of service in an active status.
3. On 3 February 2021, a DA Form 5074-R (Record of Award of Entry Grade Credit (Medical and Dental Officers)) was constructed. Based upon the applicant's education, internship, residency, and professional experience, he was awarded 10 years of constructive and entry grade credit. He therefore qualified for appointment at the rank of MAJ.
4. The applicant provides the following a:
  - a. DA Form 67-10-2, ending 17 September 2023, reflective of the applicant's performance as evaluated by members of his immediate leadership during the period of 18 September 2022 – 17 September 2023. During this period, the applicant was rated as proficient and highly qualified in the rank of MAJ as an internist in comparison with other officers rated by his senior rater.
  - b. Request for AMEDD Professional Qualification Evaluation dated 7 February 2024, reflective of the AMEDD Program Manager's recommendation that the applicant be awarded 6 additional years of constructive credit and an adjustment of his rank to reflect his entry grade as LTC in accordance with Army Regulation (AR) 135-101 (Appointment of Reserve Commissioned Officers for Assignment to Army Medical Department Branches).
  - c. Curriculum Vitae reflective of an account of the applicant's education and professional background obtained since 1989; conferred medical degree on 23 May 1994.
5. On 30 October 2024, Headquarters, U.S. Army Reserve Command, Chief, Officer Management Branch, provided an advisory opinion noting that the applicant was appointed as a Reserve Commissioned Officer with 10 years constructive credit under the provisions of Title 10, United States Code, Sections 533, 12201, and 12203. At accession, the United States Army Recruiting Command (USAREC) awards constructive credit in accordance with AR 135-101. The Medical Center of Excellence (MCoE) assesses whether an individual's experience meets the requirements for constructive credit for AMEDD officers in the Army. The Army G-3/7 is the approval authority for constructive credit requests. The applicant's application contains a USAREC Form 601-37.64 (Request for AMEDD Professional Qualification Evaluation) endorsed by an AMEDD Program Manager recommending 6 additional years of constructive credit and adjustment to his entry grade to LTC. However, their office is not permitted to award constructive credit without the approval of the MCoE. Therefore, it is

their recommendation that the applicant's submitted request be reviewed by the MCoE for approval or denial.

6. On 6 November 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

7. On 12 November 2024, the applicant responded acknowledging receipt of the advisory opinion. In addition to his initial submission, the applicant adds that over the years since commissioning, he noticed that other Physician colleagues who had been practicing medicine for less professional years than he, were commissioned in the same year as he, but in the rank of LTC. He again notes that he was not aware of the waiver process at the time of his commission.

**BOARD DISCUSSION:**

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. One potential outcome discussed was to non-concur with the OTSG advisory opinion based upon the 28 years of medical experience held by the applicant. As a result, the minority recommended granting an additional 6 years of constructive service credit and adjust the applicant's rank to LTC. However, based upon the available documentation showing the applicant received appropriate constructive service credit for his internship, residency training, and the applicant had no other prior commissioned service or additional advanced degrees, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's service credit.

**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.

[REDACTED]

[REDACTED]

[REDACTED]

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. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. AR 135-101 (Appointment of Reserve Commissioned Officers for Assignment to Army Medical Department Branches) provides policies, eligibility requirements and processing procedures for the appointment of AMEDD Officers with or without concurrent call to active duty. 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 (a below), 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 a DA Form 5074-R (Record of Award of Entry Grade Credit (Medical and Dental Officers)) for Medical Corps Officers.
  - a. The maximum entry grade credit for appointment in the Medical Corp (MC) is 14 years. Constructive service credit will be granted for periods of professional training and experience accrued after receipt of the basic qualifying degree.
  - b. The grade of an individual appointed as a Reserve officer without concurrent call to active duty will be determined by comparing the entry grade credit awarded with the phase points. Table ERR provides that Officers with 14 years or more, but less than

21 years of entry grade credit will be appointed at the rank of MAJ. Officers with 21 years or more, but less than 23 years will be appointed at the rank of LTC.

c. Paragraph 1-7 (Waiver) provides that requests for waiver of eligibility requirements will be considered only when the applicant is otherwise exceptionally qualified. Requests for waiver will be sent with the application to the Surgeon General for processing. Waiver of educational or professional requirements will not be considered except as specifically authorized.

d. Table 3-1 (Constructive Service Credit) provides the following breakdown:

- Medical Degree – 4 years
- Credit for Successful Completion of Internship – 1 year
- Full time Experience - .5 year for each year of experience up to a maximum of 3 years
- Additional Credit in Unusual Cases based on Professional Experience in a Specialty when Experience is Accrued after Qualifying Degree of Licensure; determined by the Surgeon General – 1 year for each year of Special Experience – Maximum credit under Full-time Experience must have already been awarded

//NOTHING FOLLOWS//