

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 February 2025

DOCKET NUMBER: AR20240005155

APPLICANT REQUESTS: initiation and approval of a formal line of duty (LOD) investigation showing he injured his back during a period of active duty.

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

- DD Form 149 (Application for Correction of Military Record) (2 forms)
- Reserve Active Duty Automated Reporting System (RADARS) Transmittal Letter Report
- DD Form 689 (Individual Sick Slip), dated 21 July 2021
- two DD Forms 689, dated 28 July 2021
- Standard Form (SF) 600 (Chronological Record of Medical Care)
- COVID 19 Results History, dated 31 July 2021
- Annual training orders, dated 27 August 2021
- 9 pages of medical records
- Department of Veterans Affairs (VA) Health Summary

FACTS:

1. The applicant states:

a. He needs an LOD determination for his back injury that occurred during annual training on 21 July 2021 and for COVID 19 after he tested positive the day he returned from annual training. While at annual training, he injured his back during the deadlift event of the Army Combat Fitness Test (ACFT). He immediately informed his command, and he was given a sick slip. He asked if he needed any other documents in order to keep track of his injury since he is a reservist and he was being reassigned to the Individual Ready Reserve (IRR) in August of 2021. He was told no, that they would provide everything, and he was sent to the medical area. While at the medical area, he was examined by a Soldier in the rank of specialist/E-4. He explained what happened and how it hurt when he breathed, bend, twist, or walk. The E-4 pulled out his phone and searched "how to perform a lumbar assessment" on YouTube. After the video

ended, the E-4 pushed him on his back a few times and stated that it was probably just a muscle sprain and sent him on his way with a basic physical profile and ibuprofen.

b. From 21 to 27 July 2021, his leadership was still making him conduct training even though he told them that it was causing him more pain. He was told that his physical profile did not prohibit him from bending or twisting at the waist. On 27 July 2021, it got to the point of where he was starting to have numbness and tingling in his right leg and did not have a bowel movement since the injury. He informed his chain of command again and he was told sick call was closed but they would send him on the 28th of July. While at sick call on the 28th, he spoke to a staff sergeant (SSG)/E-6 and explained everything that had happened. He explained to the SSG that every time he walked, his right side was shooting an electric feeling through his right buttock down the back of his leg to his toes. The SSG then gave him an injection in his lower back and issued him cyclobenzaprine.

c. When he got back to the tactical operations center (TOC) to turn in his medical documents, he asked his commander why an LOD investigation could not be done in order to document his injury. The response he received was " We don't give out Line of duties for muscle strains." He expressed to his commander that he was under the impression that an LOD needed to be generated when a Soldier sustained an injury or illness while on active duty. The response from the commander and the personnel office was that they were in the field and the printer was almost out of ink and that an LOD would be done during the next drill. Not thinking about his transfer to the IRR because of the pain in his back, he left the TOC. On the morning of 31 July 2021, he was informed that he was moved into the IRR. At that time, during the ride back to his home from Camp Shelby, MS, he was feeling really sick and with back pain.

d. Multiple Soldiers in their barracks were testing positive for COVID and were moved to other locations. When they arrived at the unit, he was told by a lieutenant to go home because he looked sick. While at home, he reached out to his leadership and told them he may have COVID given that the people he lived with for 14 days during annual training were all testing positive. He was told to buy a COVID test kit and submit the positive test result via text message. I went to the store, got a BinaxNOW test kit, he tested positive, and sent his results. Later he was then told to go to the hospital and get tested and submit a clinical note stating he was seen at a hospital and tested positive. He went to the hospital and informed them of his situation. He was told by the front desk personnel that his Tricare had expired and that he would need to pay out of pocket. He was seen at the hospital and tested positive on 31 July 2021. The hospital wanted to keep him for three days to monitor him and run tests but given that he was just told he did not have Tricare anymore, he could not take the chance of getting stuck with a huge hospital bill. He went home to self-medicate and to consult his mother, who is a nurse.

e. After about a week, he reached out to his leadership and asked about the LOD for his back and for contracting COVID since it is a serious illness. He was told that an LOD could not be completed for COVID and or his back because he no was on the unit's books. He reached out to the command sergeant major (CSM) and asked about the LODs and was told the unit should take care of the LOD for his back of that for COVID an "SF Forum" would be created on his behalf and that the command was still deciding on how to proceed with Soldiers who contracted COVID. A few weeks went by, and he received a call from the CSM saying that only Soldiers who were hospitalized were getting LODs. Almost two months later, SPC from the unit's personnel office reached out to him to let him know she finally was able to get him quarantine orders for 1-10 August of 2021. By this time, it was around late October.

f. He has reached out to his unit and to the U.S. Army Human Resources Command (AHRC) for over three years trying to get this issue fixed with no resolve. Each time AHRC and his unit say that it is one or the other responsibility, given his duty status being IRR at this time. His congressman has been assisting him with the matter. A lieutenant with AHRC in Fort Knox, KY sent him an email saying she received his inquiry and medical records from his congressman but unfortunately, because he is no longer in the Army, their office can no longer help him and pointed him in this direction.

2. The applicant enlisted in the U.S. Army Reserve (USAR) on 3 August 2015.

3. A RADARS Transmittal Letter Report shows the applicant was scheduled to attend active duty from 21 to 31 July 2021.

4. The applicant provided Individual Sick Slips and an SF 600 showing he was examined on 21 July and 28 July 2021 (follow up) for a back injury he sustained while performing the deadlift event of the ACFT.

5. The applicant provided a COVID 19 Results History showing he tested positive for the virus on 31 July 2021.

6. Orders issued on 21 July 2021, as amended, ordered the applicant's reassignment to the USAR Control Group (Reinforcement) effective 3 August 2021.

7. The applicant provided annual training orders, dated 27 August 2021, issued to him retroactively for active duty for 10 days beginning on 1 August 2021 for the purpose of COVID quarantine.

8. Department of the Army Orders 0010684731.00, dated 9 January 2025, ordered the applicant's honorable discharge from the USAR effective 2 August 2023.

9. The applicant provided 9 pages of medical and a VA Health Summary showing he has been receiving treatment for a back condition.

10. During the processing of this case, an advisory opinion was obtained from AHRC Casualty and Mortuary Affairs Operations Division. It states:

a. While at annual training, the applicant injured his back during the ACFT deadlift event. He immediately informed his command and was given a sick slip. He asked if additional documents were needed to track his injury since he is a Reserve Soldier and he was being reassigned to the IRR in August 2021. He was told that the unit would provide everything, and they sent him to the medical area. While at the medical area, a novice technician triaged him. From 21-27 July 2021, his leadership required him to continue training, even though he notified his leadership that it was putting him in even more pain.

b. On 27 July 2021, he began experiencing numbness and tingling in his right leg. The following day at sick call, he was given an injection in his lower back and prescribed cyclobenzaprine. He asked his commander about the status of initiating an LOD investigation and was told they do not give out LODs for muscle strains. This comment goes directly against Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations), in reference to follow-on care. He has no definitive diagnosis, which is required to obtain an LOD determination, only that it is a muscle strain for his back condition. Additionally, the Army does not initiate LOD investigations for contracting the COVID virus. It would be appropriate to place a Memorandum for Record in his file, stating he contracted COVID while in a duty status and was quarantined for the time suggested, whether it was 10 or 14 days.

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

12. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, the Army Aeromedical Resource Office (AERO), and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting affirmative line of duty (LOD) determinations for a back injury and covid infection.

c. The Record of Proceedings details the applicant's military service and the circumstances of the case.

d. The Adjutant General of the Army (TAG) oversees and manages the Army's line of duty processes as directed by the Deputy Chief of Staff, G-1. Paragraph 1-7c(1) of AR 600-8-4 Line of Duty Policy, Procedures, and Investigations (15 March 2019):

"1-7. Deputy Chief of Staff, G-1
The DCS, G-1 will —

c. Maintain functional responsibility for LOD determinations. The following specific tasks may be delegated, but not below The Adjutant General (TAG):

(1) Have functional responsibility for LOD determinations and act for the Secretary of the Army (SECARMY) on all LOD determinations and appeals referred to Headquarters, Department of the Army and all exceptions to provisions described in this regulation.

e. The United States Army Human Resources Command's (AHRC) 13 December Outside Advisory provides an excellent analysis of this circumstances of this case and concludes:

"The Soldier asked his commander about the status of initiating a LODI [line of duty investigation] and was told they don't give out Line of Duty for muscle strains. This comment goes directly against AR 600-8-4, in reference to follow-on care. The SPC [Applicant] has no definitive diagnosis, which is required to obtain a Line of Duty Determination, only that it is a muscle strain for his back condition.

f. The only error is that a muscle strain IS a definitive diagnosis. From the Cleveland Clinic website:

"A muscle strain is an injury to one of your muscles that causes it to tear. They're one of the most common injuries, especially among athletes ...

There's no difference between a strained muscled and a pulled muscle. People use the terms interchangeably. The same is true for a strained muscle and a torn muscle. They're the same injury with the same symptoms and treatments."

(<https://my.clevelandclinic.org/health/diseases/22336-muscle-strains>)

g. They stated for his Covid:

“Additionally, the Army does not initiate LODI's for contracting the COVID virus. It would be appropriate to place a Memorandum for Record in the Soldier's file, stating the Soldier contracted COVID while in a duty status and was quarantined for the time suggested, whether it was 10 or 14 days.”

h. It is the opinion of the ARBA medical advisor that an affirmative line of duty for his back injury should be issued and placed in his file and that a Memorandum for Record addressing his covid infection should also be placed in his file.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was 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 the United States Army Human Resources Command's (AHRC) advisory opinion and medical review, the Board concurred with both AHRC advising opine and the advising opinion of the ARBA medical advisor that an affirmative line of duty for his back injury should be issued and placed in his file and that a Memorandum for Record addressing his covid infection should also be placed in his file.

2. The Board found sufficient evidence in the record that shows the applicant was on active-duty orders from 21 to 31 July 2021 and sustained a back injury during the deadlift event of the Army Combat Fitness Test (ACFT). The applicant promptly reported the injury to his command and received medical attention, including a sick slip and follow-up treatment. The Board noted, despite his worsening symptoms, including numbness and tingling in his leg, his leadership continued to require participation in training and failed to initiate an LOD investigation. The applicant's commander dismissed the injury as a muscle strain, contrary to Army Regulation 600-8-4, which mandates LOD investigations for injuries incurred during active duty that may require follow-on care.

3. The Board acknowledged the advisory opinion from the U.S. Army Human Resources Command (AHRC) which supports the applicant's claim and confirms that the failure to initiate an LOD investigation was inconsistent with regulatory guidance. Therefore, the Board granted partial relief for initiation and approval of a formal LOD investigation for the applicant's back injury sustained on 21 July 2021. However, in accordance with current policy, the Board denied LOD initiation for the applicant's

COVID-19 diagnosis. Instead, a memorandum for record should be placed in his file acknowledging that he contracted COVID-19 while in a duty status and was appropriately quarantined.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
XXX	XXX	XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show initiation and approval of a formal LOD investigation for the applicant’s back injury sustained on 21 July 2021 along with a memorandum for record placed in the applicant’s file that acknowledges he contracted COVID-19 while in a duty status and was appropriately quarantined.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to initiation and approval of a formal line of duty (LOD) for the applicant’s COVID-19 diagnosis.

X //SIGNED//

CHAIRPERSON

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. Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations) prescribes policies and procedures for investigating the circumstances of disease, injury, or death of a Soldier providing standards and considerations used in determining line of duty (LOD) status.

a. The Army LOD Program is a commander's program which essentially protects the interest of both the Soldier and the U.S. Government where service is interrupted by injury, illness, disease, or death. LOD investigations determine duty status at the time of incident and whether misconduct was involved and, if so, to what degree. Additionally, LOD investigations may be required to determine an existed prior to service condition, and, if so, determine service aggravation.

b. An LOD investigation will be conducted for all Soldiers, regardless of component, if the Soldier experiences a loss of duty time for a period of more than 24 hours and:

(1) The injury, illness, or disease is of lasting significance (to be determined by a physician, physician assistant, or nurse practitioner).

(2) There is a likelihood that the injury, illness, or disease will result in a permanent disability.

(3) If a Reserve Component Soldier requires follow-on care for an injury, illness, or disease incurred during a period of active duty.

c. A formal LOD investigation is a detailed investigation that normally begins with a DA Form 2173 (Statement of Medical Examination and Duty Status) completed by the medical treatment facility and annotated by the unit commander as requiring a formal LOD investigation. The appointing authority, on receipt of the DA Form 2173, appoints an investigating officer who completes the DD Form 261 (Report of Investigation LOD and Misconduct Status) and appends appropriate statements and other documentation to support the determination, which is submitted to the general court-martial convening authority for approval.

d. An injury, disease, or death is presumed to be in LOD unless refuted by substantial evidence contained in the investigation. LOD determinations must be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion. The evidence contained in the investigation must establish a degree of certainty so that a reasonable person is convinced of the truth or falseness of a fact.

2. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including

summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//