

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 April 2025

DOCKET NUMBER: AR20240006179

APPLICANT REQUESTS: removal or transfer of his General Officer Memorandum of Reprimand (GOMOR) from the performance portion to the restricted portion of the Army Military Human Resource Record (AMHRR).

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored Memorandum, 7 pages
- Department of Army Suitability Evaluation Board (DASEB) application:
 - Enclosure 1: Law Enforcement Report, dated 23 November 2020, states the applicant was suspected of committing fraud against Medicare and Tricare (Anti-Kickback Statute and Healthcare Fraud where the U.S. Government was the victim)
 - Enclosure 2: Department of Justice, Report of Interview letter, dated 21 September 2021, reflects that the U.S. Attorney's Office interviewed the applicant via telephone, the report states:
 - He worked as a locum tenens consultant for [REDACTED] Associates.
 - To review patient records, the applicant would log onto a portal. Once logged into the system he said there would be electronic claims assigned to him ready for review.
 - He stopped working with [REDACTED] Associates around August 2020, because he received a phone call from a beneficiary and another from the family of a beneficiary that they received a brace that was ordered by him that they did not request.
 - He contacted [REDACTED] and explained his concerns and they amicably terminated the working relationship.
 - Enclosure 3: Law Enforcement Report, dated 25 November 2020, was generated to rescind restricted distribution of this report and to provide an investigative update
 - Enclosure 4: GOMOR rebuttal memorandum, dated 5 October 2002, the applicant requests consideration from the Commanding General that his GOMOR be filed in his local file

- Enclosure 5: GOMOR filing determination of reprimand memorandum, dated 10 January 2023, directed the permanent filing of the GOMOR in the performance portion of the applicant's AMHRR
- Enclosure 6: Board of Inquiry (BOI) Findings and Recommendations Worksheet
- Enclosure 7: Five letters of support that collectively attest to his integrity, moral courage, performance, and potential
- Enclosure 8: National Practitioner Data Bank letter, dated 1 June 2023, provided a response to the applicant's self-query, no reports were found
- DASEB decision letter, dated 1 May 2024, shows the Board determined there was insufficient evidence to justify removal or transfer of the unfavorable information to the AMHRR restricted section

FACTS:

1. The applicant believes the purpose of the GOMOR has been served and that it is in the best interest of the Army to transfer it to his restricted file. He explains further in his 7 page memorandum, which is available for the Board's review in the supporting documents:

- he had no previous accusations
- a Criminal Investigation Division agent's comment that "it is almost impossible to determine if any fraudulent activity occurred"
- a BOI determined the allegation was not supported by a preponderance of the evidence
- his post GOMOR conduct
- he continued to perform at a high-level

2. A review of the applicant's available service record reflects the following:

a. He was appointed as a Reserve Commissioned Officer of the Army in the rank of second lieutenant on 6 May 2009.

b. A Law Enforcement Report, dated 23 November 2020, named the applicant as a subject involved in Anti-Kickback Statute and Healthcare Fraud where the U.S. Government was the victim. It was alleged he signed over 2,326 prescriptions for patients needing medical tests and medical devices for a privatized company.

c. On 25 July 2022, the Commanding General, Headquarters, I Corps, Joint Base Lewis-McChord, WA, issued the applicant a GOMOR for healthcare fraud, wherein he stated:

You signed over 2,000 prescriptions for tests and medical devices for a private company that sold your signed prescriptions to another that turned in those into Medicare and Tricare for reimbursement. You signed prescriptions for braces to receive \$15 per document approved. You did not retain copies of any records reviewed. You signed prescriptions for patients that they never requested or needed without ever meeting the patients.

You are hereby reprimanded for healthcare fraud. As a Commissioned Officer, you are charged with the responsibility of setting the example for Subordinates to emulate. Clearly, your actions fell far below the standards expected of a Commissioned Officer in the U.S. Army.

This is an administrative reprimand imposed under the provisions of Army Regulation 600-37(Unfavorable Information) and not as punishment under Article 15, Uniform Code of Military Justice. You are advised that in accordance with Army Regulation 600-37, paragraph 3-5b, I intend to direct this reprimand be filed permanently in your AMHRR. Prior to making my filing decision, I will consider any matters you submit in extenuation, mitigation, or rebuttal. You will be provided, by separate cover, a copy of the evidence which forms the basis for this reprimand. You will immediately acknowledge receipt of this reprimand in writing. You will forward any matters you wish me to consider through your chain of command within seven calendar days, using the format prescribed in Army Regulation 600-37, paragraph 3-7.

d. On 22 September 2022, the applicant acknowledged receipt of the GOMOR and elected to submit matters on his own behalf.

e. In rebuttal on 5 October 2022, he requested that his GOMOR be filed in his local file. He stated he felt sick that he played any part in a fraud scheme; he was an unknowing and unwitting participant. He affirmed that he had been cooperative, forthcoming, and truthful every step of the way.

f. On 10 January 2023, the Commanding General, Headquarters, I Corps, Joint Base Lewis-McChord, WA, directed the permanent filing of the GOMOR in the performance portion of the applicant's AMHRR.

g. A BOI convened to determine whether the applicant should be separated from the Army prior to the expiration of his term of service under the provisions of Army Regulation 600-8-24 (Officer Transfers and Discharges), paragraph 4-2b, for misconduct, moral or professional dereliction, and 4-2c, for derogatory information. The board, in a closed session and upon secret ballot with a majority vote taken, made the following findings and recommendations:

(1) The board, having carefully considered the evidence before it, found:

- the allegation that he falsified medical documents to profit from them was not supported by a preponderance of the evidence
- the allegation that he received a GOMOR, dated 25 July 2022, which constituted substantiated derogatory information filed in his AMHRR was supported by a preponderance of the evidence

(2) In view of these findings, the BOI recommended the applicant's retention in the U.S. Army without reassignment.

h. On 16 April 2024, in Docket Number AR20240002773, the DASEB denied the applicant's request for removal of the GOMOR from his AMHRR. The Board determined the evidence presented did not provide substantial evidence that the document in question had served its intended purpose or is untrue or unjust, and that its transfer or removal would be in the best interest of the Army. The Board directed the decision memorandum will be filed in the applicant's AMHRR, and the appeal documentation will be filed in the restricted section of the AMHRR.

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 and available military record, the Board found insufficient evidence of an error or injustice which would warrant a correction of the applicant's record. The Board noted the GOMOR accurately reflects the applicant's misconduct. After reviewing the facts and circumstances, the Board found that all due process protections were afforded the applicant and that the processing of the GOMOR was done within regulatory guidelines and standards.

2. The purpose of maintaining the Army Military Human Resource Record (AMHRR) is to protect the interests of both the U.S. Army and the Soldier. In this regard, the AMHRR serves to maintain an unbroken, historical record of a Soldier's service, conduct, duty performance, and evaluations, and any corrections to other parts of the AMHRR. Once placed in the AMHRR, the document becomes a permanent part of that file and will not be removed from or moved to another part of the AMHRR unless directed by an appropriate authority. There does not appear to be any evidence the contested GOMOR was unjust or untrue or inappropriately filed in the applicant's AMHRR. For that reason, the Board denied relief.

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.

X █

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 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record; it is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

2. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to authorize placement of unfavorable information about Army members in

individual official personnel files; ensures that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and ensures that the best interests of both the Army and the Soldier are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

a. Chapter 3 (Unfavorable Information in Official Personnel Files) states an administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. Paragraph 3-5 (Filing of Nonpunitive Administrative Memoranda of Reprimand, Admonition, or Censure) states nonpunitive administrative letters of reprimand, admonition, or censure in official personnel files, such as a memorandum of reprimand, may be filed in a Soldier's AMHRR only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the AMHRR, the recipient's submissions are to be attached. Once filed in the AMHRR, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states once an official document has been properly filed in the AMHRR, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the AMHRR.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management), 7 May 2014 prescribes policies governing the AMHRRs Management Program. The AMHRR includes, but is not limited to, the Official Military Personnel File, finance-related documents, and non-service related documents deemed necessary to store by the Army.

a. Paragraph 3-6 states that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or other authorized agency.

b. Appendix B shows letters/memorandums of reprimand, censure, and admonition are filed in the performance folder unless directed otherwise by the DASEB.

//NOTHING FOLLOWS//