

**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2013-026**



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**FINAL DECISION**

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case after receiving the applicant's completed application on November 20, 2012, and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated August 8, 2013, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST AND ALLEGATIONS**

The applicant asked the Board to remove from her Health Record a diagnosis of "alcohol dependence" or to correct the record to reflect her most recent diagnosis, which is not alcohol dependent or abusive. The applicant alleged that she was "over diagnosed" in 2010, when she was just 18 years old, but she does not believe that she meets the criteria. She alleged that when she underwent alcohol screening, she misunderstood the word "tolerance" and so answered the screener's questions incorrectly.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard for a term of four years on June 1, 2009, at age 18. Upon completing boot camp, she was assigned to a shore unit.

On February 2, 2010, the applicant's command entered a Page 7 in her record stating that on February 1, 2010, she had been screened for alcohol abuse and dependence after she self-referred for alcohol abuse. The screening was conducted by a lieutenant commander who was a physician's assistant at a Coast Guard clinic and the results showed that she met the criteria for alcohol dependence. Therefore, she was recommended for a 28-day inpatient treatment program to begin the next day. After she completed the program, the applicant's command counseled her on a Page 7 dated March 3, 2010, that she was subject to a mandatory aftercare program, which included (a) abstaining from alcohol indefinitely, (b) attending weekly meetings with the unit

CDAR for a year, and (c) attending at least two 12-step or other support group meetings per week for a year. She was advised that if she failed to comply with this aftercare program, she would be subject to separation under Chapter 20 of the Personnel Manual.

On November 2, 2012, a doctor who is a captain in the U.S. Public Health Service sent the applicant's command a memorandum that states the following:

1. Respectfully submit the following information at the request of the member.
2. [The applicant] met with me on 01 Oct 2012 for command-directed, substance/alcohol abuse screening. She was on time, and neatly groomed. Her answers were direct, respectful, and she appeared forthright. She stated that on the evening of 12 September 2012 she went to a bar in [REDACTED] with coworkers for a morale event and consumed 1.5 servings of beer over 3 hours. No aberrant or inappropriate behaviors were present.
3. Pt reports she started initially consumed alcohol at age 18 at her first USCG duty station. At that time she drank approximately once a month until she consumed in excess of one evening had a blackout and was referred for alcohol screening in February 2010 [sic]. She states at that time she misunderstood the medical provider's question about "tolerance" to alcohol to mean acquiring the taste. She was diagnosed with alcohol dependence and referred for 28 day inpatient rehab. She currently reports no history of physical tolerance or withdrawal to alcohol.
4. In accordance with reference (a) [the DSM-IV], [the applicant] does not currently meet DSM-IV criteria for alcohol dependence or abuse.<sup>[1]</sup> The provider who made the diagnosis in 2010 no longer works for the Coast Guard and the documentation available in her record is scanty. It is possible that she may have been 'overdiagnosed' in February 2010. She is mentally competent and is accountable for her actions.

### VIEWS OF THE COAST GUARD

On May 23, 2013, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny the applicant's request. In so doing, he adopted the facts and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

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<sup>1</sup> The Coast Guard relies on the American Psychiatric Association's DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS when diagnosing members with psychological conditions. See Coast Guard Medical Manual, Chap. 5.B.1. Under the DSM-IV-TR, "alcohol dependence" is a type of "substance dependence," which is diagnosed based on "cognitive, behavioral, and physiological symptoms indicating that the individual continues use of the substance despite significant substance-related problems. There is a pattern of repeated self-administration that can result in tolerance, withdrawal, and compulsive [substance]-taking behavior. ... [C]raving ... is likely to be experienced by most (if not all) individuals with substance dependence. Dependence is defined as a cluster of three or more of the symptoms listed below occurring at any time in the same 12-month period": (1) tolerance—needing more to achieve the desired effect or the same amount having a decreased effect; (2) withdrawal symptoms or taking more to prevent withdrawal symptoms; (3) taking more than originally intended; (4) repeated attempts or persistent desire to reduce intake; (5) spending too much time obtaining the substance or recovering from its effects; (6) reducing important social, occupational, or recreational activities because of substance use; and (7) continuing intake despite diagnosed negative consequences, such as ulcer pain or depression. American Psychiatric Association, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (2000) (DSM-IV-TR), pp. 192-98, 213.

PSC noted that Article 20.B.2.e.2. of the Personnel Manual in effect in 2010 and Chapter 2.B.5.b. of the current Drug and Alcohol Abuse Program Manual (DAAPM) provide that members who self-refer due to alcohol abuse may request the removal of the screening and treatment documentation from their Personnel Data Records (PDRs) after successfully completing the prescribed aftercare program so that the documentation will appear only in the members' Health Records. PSC stated that the Page 7s at issue in this case have been removed from the applicant's PDR but should remain in her Health Record in accordance with policy in the Health Promotion Manual, COMDTINST M6200.1. Therefore, PSC argued, the applicant's request should be denied.

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On May 27, 2013, the Chair mailed the applicant a copy of the views of the Coast Guard and invited her to respond within 30 days. No response was received.

### **APPLICABLE REGULATIONS**

Article 20.A.2.d.1. of the Personnel Manual in effect in 2010 defined an "alcohol incident" as "[a]ny behavior, in which alcohol is determined, by the commanding officer, to be a significant or causative factor, that results in the member's loss of ability to perform assigned duties, brings discredit upon the Uniformed Services, or is a violation of the Uniform Code of Military Justice, Federal, State, or local laws. The member need not be found guilty at court-martial, in a civilian court, or be awarded non-judicial punishment for the behavior to be considered an alcohol incident." Article 2.P.10. of the Health Promotions Manual in effect at the time included the following in the definition: "Underage drinking by itself is considered an alcohol incident."

Article 20.B.2.c. of the 2010 Personnel Manual states that "[s]elf-referral to alcohol treatment, by itself, is not considered an alcohol incident. The documentation of screening and treatment of members who self-refer shall be handled in accordance with the provisions of Article 20.B.2.e." Article 2.B.2.e. states that if a command refers a member for alcohol screening because of an "alcohol incident" or signs of alcohol abuse, the member will be screened in accordance with the Health Promotion Manual, and "[t]he results of this alcohol screening shall be recorded and acknowledged on an Administrative Remarks, Form CG-3307, entry or letter, as appropriate, in the member's PDR." However, if there is no "alcohol incident" and the member self-refers for alcohol abuse, "the member may request removal of the screening letter and treatment plan from his or her Personnel Data Record after successfully completing the prescribed aftercare. A permanent record of the screening and treatment will be kept only in the member's Health Record in accordance with reference (a), Coast Guard Health Promotion Manual, COMDTINST M6200.1 (series)." This same regulation currently appears in Article 2.B.5. of the Drug and Alcohol Abuse Program Manual (DAAPM), COMDTINST M1000.10, which replaced Article 20 of the Personnel Manual in 2011.

Article 2.O.4.a. of the Health Promotion Manual requires that the results of alcohol screening be documented in a member's Health Record, and Article 2.N.2.a. requires entry of a Page 7 documenting the member's completion of treatment and aftercare plan. Article 2.O.3.a. states that "[a]ll documentation surrounding alcohol/drug problems must be documented in the

member's service record. The CDAR, together with the command, will ensure that all entries made in the member's service record completely and accurately document the incident, self-referral, or command referral, and all actions/counseling afforded to the member."

Article 2.G.1. of the Health Promotion Manual states that alcohol screening must be conducted by a "qualified screener," which Article 2.P.25. defines as

[a] Coast Guard medical officer, other licensed physician, or psychologist who is trained and privileged to provide diagnostic screening for substance abuse or dependency. Substance Abuse Prevention Specialists who have attended Navy Drug and Alcohol Counselor School (NDACS) and have completed the required internship may be designated as a qualified screener. Coast Guard medical officers may request drug and alcohol screening privileges to the Professional Review Committee through the normal privileging process. Attendance at the Navy Addictions Orientation for Health Care Providers (AOHCP) or equivalent program, or documented professional experience and training in substance abuse and dependency, are required for obtaining drug and alcohol screening privileges. The Professional Review Committee will evaluate non-AOHCP training and experience requests for drug and alcohol screening privileges.

Article 2.P.7. of the Health Promotion Manual defines "alcohol dependence" as "[a] diagnosis made by a psychiatrist, psychologist or medical officer using specific criteria published in the DSM, diagnostic code number 303.9. Once a member has been diagnosed as alcohol dependent the diagnosis shall not be downgraded to alcohol abusive."

Article 2.B.11.a. of the DAAPM states that members found "violating an alcohol rehabilitation aftercare plan normally are processed for separation." However, Article 2.B.11.b. states the following about member who self-refer for treatment and are diagnosed as alcohol dependent:

Members that self-refer for an alcohol screening that are identified as alcohol dependent, as defined in the Diagnostic and Statistical Manual of Mental Disorders ((303.9) DSM IV), must attend and successfully complete an appropriate treatment program for chemical dependency. Because self-referred members are not identified as the result of an alcohol incident they are granted consideration for self-referring should a relapse occur during the aftercare phase of their treatment plan. The relapse will be documented as their first alcohol incident and a new aftercare program will be reinstated effective the date the relapse was identified. Should the self-referred member fail to complete the second aftercare plan they will be processed for separation per reference (c), Military Separations, COMDTINST M1000.4 (series).

## FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, and applicable law:

1. The Board has jurisdiction over this matter under 10 U.S.C. § 1552. The application was timely filed within three years of the entry of the disputed Page 7s in the applicant's Health Record.<sup>2</sup>

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<sup>2</sup> 10 U.S.C. § 1552(b).

2. The applicant alleged that the Page 7s in her Health Record stating that she is alcohol dependent and so must abstain from drinking alcohol indefinitely are erroneous and unjust. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed documents in an applicant's military record are correct and fair, and the applicant bears the burden of proving by a preponderance of the evidence that the documents are erroneous or unjust.<sup>3</sup> Absent specific evidence to the contrary, the Board presumes that Coast Guard officers and other Government officials have carried out their duties "correctly, lawfully, and in good faith."<sup>4</sup>

3. The applicant alleged that during her alcohol screening on February 1, 2010, she mistakenly believed that the word "tolerance" meant "acquiring the taste" and so answered the screener's questions incorrectly and was "overdiagnosed" as alcohol dependent. A senior medical officer has stated that the applicant's claim is possible and noted that the person who screened her is not available and that the evidence in the Health Record supporting the diagnosis is scant.

4. The applicant has not submitted sufficient evidence to overcome the presumption of regularity accorded her February 1, 2010, alcohol screening results.<sup>5</sup> The fact that a doctor who screened her in 2012 found that her answers did not meet the criteria for a diagnosis of alcohol dependence in the DSM and reported that it is possible that she was "overdiagnosed" in 2010 is insufficient to prove that the officer who conducted her alcohol screening in 2010 failed to ensure that she understood the questions or erred in finding that her answers showed that she met at least three of the seven criteria for alcohol dependence as required for a diagnosis.<sup>6</sup> Changing a diagnosis from alcohol dependence to alcohol abuse is expressly prohibited,<sup>7</sup> although not beyond the Board's authority if the preponderance of the evidence supported her allegations.<sup>8</sup> Such evidence could exist in the records of the applicant's 28-day inpatient alcohol rehabilitation treatment in February 2010, but she did not submit them.<sup>9</sup>

5. According to the regulations in effect in 2010 and today, the Page 7s at issue in this case, which document the applicant's screening results and aftercare plan, were properly prepared in 2010 and are correctly retained in the applicant's Health Record today.<sup>10</sup>

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<sup>3</sup> 33 C.F.R. § 52.24(b) ("The Board begins its consideration of each case presuming administrative regularity on the part of Coast Guard and other Government officials. The applicant has the burden of proving the existence of an error or injustice by the preponderance of the evidence.")

<sup>4</sup> *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

<sup>5</sup> 33 C.F.R. § 52.24(b).

<sup>6</sup> American Psychiatric Association, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (2000), p. 197 (criteria described in note 1 above).

<sup>7</sup> Health Promotion Manual, Art. 2.P.7.

<sup>8</sup> 10 U.S.C. § 1552(a); 33 C.F.R. § 52.24(b).

<sup>9</sup> 33 C.F.R. § 52.24 (a) ("It is the responsibility of the applicant to procure and submit with his or her application such evidence, including official records, as the applicant desires to present in support of his or her case)."

<sup>10</sup> Coast Guard Personnel Manual, Art. 2.B.2.e.; Drug and Alcohol Abuse Program Manual, Art. 2.B.5.; Health Promotion Manual, Arts. 2.N.2., 2.O.3., and 2.O.4.

6. Therefore, the applicant's request should be denied because she has failed to prove by a preponderance of the evidence that the Page 7s in her Health Record that document her screening results and aftercare plan in 2010 are erroneous or unjust.

7. The Board notes, however, that with a diagnosis of alcohol dependence and an aftercare program requiring indefinite abstinence, the applicant risks being discharged for alcohol rehabilitation failure if she ever drinks alcohol while serving on active duty.<sup>11</sup> Therefore, in the interest of justice, the Board will grant further consideration on this issue if within 180 days of the date of this decision the applicant submits a complete copy of the records of her 28-day inpatient rehabilitation treatment and if those records cast doubt on the validity of her alcohol screening results.

**[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]**

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<sup>11</sup> Drug and Alcohol Abuse Program Manual, Art. 2.B.11.a.

**ORDER**

The application of [REDACTED] for correction of her military record is denied except that the Board will grant further consideration if within 180 days of the date of this decision she submits a complete copy of the records of her 28-day inpatient rehabilitation treatment and if those records cast doubt on the validity of her February 1, 2010, alcohol screening results.

