

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-098

████████████████████
██████████ HS2

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the completed application on February 16, 2018, and assigned it to staff attorney ██████████ to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated September 28, 2018, 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, an active duty Health Services Technician, asked the Board to correct her record by removing three CG-3307s (“Page 7s”),¹ dated December 17, 2015, March 29, 2016, and May 9, 2016, from his record. She asserted that the three Page 7s were signed by individuals who “did not have by-direction authority to officially complete these entries.” She stated that the Page 7s were also misidentified as entry types P&D-10, when they should have been identified as P&D-7.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on March 29, 2013. She has no other negative documentation in her record other than the Page 7s at issue in this case.

The December 17, 2015, Page 7 is signed by the Clinic Administrator and the applicant. It states:

[Applicant] it was found on this date that you negligently administered expired immunotherapy medications on nine different occasions to a patient without ensuring the immunes were compliant.

¹ An Administrative Remarks record entry, form CG-3307, better known as a “Page 7,” is used to document a member’s notification of important information, achievements, or counseling about positive or negative aspects of a member’s performance in the member’s military record.

You completely disregarded the procedure of dispensing medication/immunizations using the verifying process of the 5 R's: right route, right dose, right patient, right medication/expiration and right time. After administering the expired medication you proceeded to document nine times that you had verified the expiration on each encounter but this was not found to be the case. Your negligence in administering this expired medication had the potential of doing harm to the patient or possibly initiating an adverse reaction.

You are reminded that from this point forward you will have senior personnel initial any medication or immunizations that you dispense until you regain the trust of the provider and senior personnel in the clinic.

The March 29, 2016, Page 7 is signed by the Clinic Administrator and the applicant. It states:

[Applicant], it has been found that after being tasked twice to mail out a medical record, you failed to do so.

[Applicant] you were tasked with mailing out a medical record on 08Jan16 via email by HS1 ... When HS1 ... followed up the following month it was found that the medical record still had not been sent. You were then tasked on 02Feb16 to send out the record the following day. Today an email was received from the member stating the record still had not been received at the unit. When questioned you explained it was not sent because you did not have a point of contact and the record got put at the bottom of a "to do" pile.

This behavior and lack of attention to detail is unacceptable.

The May 9, 2016, Page 7 is signed a Clinic Supervisor but the applicant refused to sign. It states:

[Applicant], it has been found that you failed to complete two tasks as part of the front desk responsibilities.

On 28 Apr 2016 an email was received by ... of United Healthcare advising you and HS1 ... that the PCH system had several additional service requests pending. The dated requests ranged from 19-21April. You had been SIQ for 2 days, returning to work 20April. This time frame still left 8 days where PCH was clearly not checked. The clinic front desk SOP states this should be a daily task as some of the requests can be urgent and it was assumed upon your return that this duty would be attended to.

Second, on 03 May 2016 an email was sent from the XO to HSC ... explaining that a local medical office had made several attempts to contact you to include leaving messages at the front desk. The lack of response delayed the care of the referred patient and created a poor image of the Coast Guard and Clinic.

This performance is not acceptable at Sector ... and is below the standards of your paygrade. Further instances of this nature will result in your placement on performance probation.

VIEWS OF THE COAST GUARD

On July 31, 2018, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant relief in this case. In doing so, he adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC stated that the application is timely and therefore should be considered on the merits. PSC stated that in accordance with COMDTINST 1000.14C, the two members who issued the applicant the Page 7s in dispute were not authorized to sign them. The Page 7s also were not issued on the correct entry forms because they should have been on P&D-7s and not P&D-10s.

PSC therefore recommended that the applicant's request be granted and the three Page 7s be removed from his record.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 7, 2018, the Chair sent the applicant a copy of the Coast Guard's views and invited her to respond within 30 days. No response was received.

APPLICABLE REGULATIONS

The manual on Administrative Remarks, Form CG-3307, COMDTINST 1000.14C, Article 8.f. states that in addition to deputy and assistant commandants and commanding officers, the following may sign Page 7s unless authority to sign is explicitly withheld: members designated as commanding officer of enlisted members; officers in grade of commander or higher; officers in charge; executive officers; executive petty officers; sector logistics department heads; district or sector senior reserve officers; base personnel support department heads; and civilian deputies in senior leadership positions at certain commands. Article 8.g. states that commanding officers "may delegate this authority to other commissioned officers, either specific individuals or positions, provided such delegations are documented in writing via memorandum or unit instruction."

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 submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.

2. The applicant alleged that the three disputed Page 7s, dated December 17, 2015, March 29, 2016, and May 9, 2016, were not signed by authorized officers and were incorrectly labeled. She therefore argued that the Page 7s were erroneous and should be removed from his record in their entirety. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in her record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.² Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."³

3. The applicant has proven by a preponderance of the evidence that the three adverse Page 7s she received should be removed from her record. The applicant alleged, and the Coast Guard has agreed, that the Page 7s should not have been signed by the Clinic Supervisor or the Clinic Administrator pursuant to Article 8.f. of COMDTINST 1000.14C. There is no evidence

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

available showing that the Commanding Officer had delegated the authority to sign Page 7s to either the Clinic Supervisor or the Clinic Administrator,⁴ and the Coast Guard did not assert that there had been such a delegation or that the Clinic Supervisor or Clinic Administrator could sign the Page 7s based on their rank or position pursuant to Article 8.f.. Therefore, the Board finds that the applicant has proven by a preponderance of the evidence that the three disputed Page 7s, dated December 17, 2015, March 29, 2016, and May 9, 2016, were signed by an improper authority in accordance with Coast Guard policy and should be removed from her record.

4. The applicant also argued that the three Page 7s should be removed from her record because they are misidentified as P&D-10s instead of P&D-7s. The Board notes that relief is being granted to the applicant for the reasons stated above only. The Board does not remove Page 7s from military records due to minor administrative errors.⁵

5. Accordingly, relief should be granted by removing the three disputed Page 7s dated December 17, 2015, March 29, 2016, and May 9, 2016, from the applicant's record.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁴ COMDTINST 1000.14, Article 8.g.

⁵ See Docket No. 2016-054.

ORDER

The application of HS2 [REDACTED], USCG, for correction of her military record is granted. The Coast Guard shall remove from her record the adverse Page 7s dated December 17, 2015, March 29, 2016, and May 9, 2016.

No other relief is granted.

September 28, 2018

