

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

---

Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2021-102**

██████████ ██████████ ██████████  
YNC (former)

---

**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on July 23, 2021, and assigned the case to the staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision dated September 22, 2023, 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, a former Chief Yeoman (YNC/E-7) who was honorably discharged on July 16, 2018, for failing weight probation, asked the Board to correct her record by:

- Returning her to active duty at her YNC rate and paygrade for the purpose of having her evaluated through the Physical Disability Evaluation System (PDES).
- Awarding her the Coast Guard Achievement Medal for serving her tour of duty at a Sector Command from May 8, 2011, through May 29, 2015.
- Awarding her the Coast Guard Commendation Medal for her tour of duty at the Personnel Service Center (PSC) from June 19, 2015, through July 16, 2018.
- Providing her with an Honorable Discharge Certificate.
- Providing her with a Coast Guard Retirement Certificate.
- Awarding her the Coast Guard Good Conduct Medal for completing her 12<sup>th</sup> year of honorable service achieved in October 2018.
- Correct her records from the Department of Homeland Security (DHS) that have prevented her from being hired for three separate positions.

The applicant alleged that after her enlistment in the Coast Guard on October 31, 2006, she had many medical issues resulting in hospitalizations, surgeries, and chronic illnesses. According to the applicant, her Coast Guard medical record is a good depiction of her disabilities. The

applicant argued that given her medical conditions, she should have been medically retired instead of being administratively separated. The applicant alleged that she was humiliated, discarded, and, worst of all, not taken seriously. The applicant claimed that the way PSC views medical evaluation boards (MEBs), or rather the practitioners approving or denying the cases, was extremely subjective to say the least. The applicant alleged that she was told out of the mouths of CAPT H and LT J that because she was not an elite operational member and because she was just support personnel, her medical issues, regardless of how compounding they were, would not prevent her from being found to be Fit for Full Duty because as a yeoman, she just “sat at a desk.” The applicant stated that she did not understand because she had an SF-600<sup>1</sup> that limited all exercise. The applicant claimed that her medical conditions caused her pain and personal logistical difficulties, and so she was authorized a more liberal teleworking schedule.

The applicant alleged she has been diagnosed with chronic PTSD, General Anxiety Disorder, Major Depressive Disorder, Irritable Bowel Syndrome, High Blood Pressure, Chronic Back Pain, Herniated Disc, and Arthritis. The applicant further alleged that while her body was riddled with pain, she was still required to be the Chief in a position with high leadership visibility and a single mother of four. The applicant claimed that during the last six months of her active duty she managed her pain by taking multiple prescription medications.<sup>2</sup> The applicant alleged that while at work, she was often somewhere dozing off due to her medications, crying in pain, or just obsessively worrying about her health and career. The applicant claimed that she was suffering loudly and transparently and yet everyone blamed her for not “wanting it” bad enough or being unable to “maintain the standard.” The applicant further claimed that after she failed weight probation and was soon to be discharged, she was referred to medical and, while crying inconsolably, she was referred to a gynecologist. The applicant explained that on June 1, 2018, she was seen by Dr. P, who told the applicant that she was suffering from uterine prolapse and that surgery was required to correct the issue.<sup>3</sup> Nevertheless, she was administratively discharged for failing to meet the weight and body fat standards on July 16, 2018.

The applicant explained that she was unemployed but in order to legally draw unemployment benefits one must be “ready and able to work immediately.” However, the applicant stated that she was in excruciating pain daily, both before and after her surgery on October 25, 2018, and unable to work. Therefore, she did not seek unemployment benefits. The applicant alleged that her leadership, including her Command Master Chief (CMC), Coast Guard medical, and PSC all wanted her to feel grateful and satisfied with the mere fact that her medical bills would be paid for by the TRICARE’s transition program. The applicant stated that this condition was not something she made up to prolong her career simply because she was overweight. The applicant claimed that because the Coast Guard was able to classify her discharge as administrative due to failure to meet the Coast Guard weight and body fat standards, the Coast Guard pushed her medical issues to the backburner and “tossed her out” after only 30 days. The applicant further claimed that she received no formal recognition of the dedicated work she had

---

<sup>1</sup> The SF-600 is the “Chronological Record of Medical Care” and is the Coast Guard’s version of the doctor’s note.

<sup>2</sup> For privacy purposes the Board chooses not to list the applicant’s medications.

<sup>3</sup> The NLM states that Uterine prolapse occurs when the womb (uterus) drops down and presses into the vaginal area. Muscles, ligaments, and other structures hold the uterus in the pelvis. If these tissues are weak or stretched, the uterus drops into the vaginal canal. This condition is more common in women who have had one or more vaginal births and for women who are overweight.

given to her local personnel office, nor did she receive an Honorable Discharge Certificate. The applicant stated that not only was her treatment generally unfair, but it was especially unfair considering her mental state. The applicant alleged that because her Primary Care Manager (PCM) transferred to a different duty station, her original surgery was pushed back from August 2018 to October 2018, which with her anxiety felt like a lifetime.

The applicant explained that during this time she was also purchasing her first home. The applicant stated that this was and still is a privilege that many African Americans are prevented from obtaining. The applicant alleged that during this process her supervisor, CWO4 C, discouraged her from buying a home due to the uncertainty of her career. The applicant claimed that the only thought that loomed in her mind and overshadowed everything was that once her military pay ended, her privilege to live in base housing would also end and therefore she had no choice but to ensure her children had a stable home. The applicant stated that on July 16, 2018—the date of her separation—she sat cold and alone, pleading for her career, trying to find the right words that would resonate with her doctors and her senior leadership so that they would understand her plight. The applicant alleged that CDR H, CWO4 C, LT J (the Physician's Assistant treating her), and CAPT H (head of that region's medical clinic), who were all men, failed her. The applicant claimed that none of these individuals offered her sympathy or solutions because they had never experienced what she was going through. The applicant alleged that the handful of overworked doctors that cycled through the clinic and PSC's disability branch denied her a six-month extension that would have allowed her to remain on active duty. The applicant claimed that she deserved to remain on active duty while she had her surgery and convalesced, which would have given her additional time to meet the Coast Guard's Weight and Body Fat Standards and thus save her career. Instead, she was denied a waiver of the standards, denied the right to be paid, and kicked out of the Coast Guard after only 30 days. The applicant further alleged that her doctors made "willy nilly" decisions that completely changed her life in a review of her record that could in no way have been comprehensive enough.

The applicant claimed that while the Coast Guard was processing her for separation, her cousin was found murdered. According to the applicant, while she was back home helping her aunt with funeral arrangements, her immediate supervisor CWO4 C texted her and insisted that she return to her unit to complete her pre-separation physical. The applicant explained that after her separation she had no money coming in, which resulted in her defaulting on all of her credit cards and her car loan, as well as a pending foreclosure action against her new home. The applicant stated that in addition to her credit suffering, her mental health also suffered. The applicant alleged that she was successfully being treated by CDR R, a psychiatrist, and a psychologist, but spiraled out of control due to anxiety attacks that sent her to the hospital on multiple occasions. The applicant claimed that she applied for but was denied three different jobs within DHS because of her bad credit even after she explained her mitigating circumstances. The applicant stated that she was transparent and honest about her situation, but no one was willing to listen.

To support her application, the applicant submitted approximately 600 pages of medical records. Those records relevant to the applicant's case and contemporaneous with her discharge are summarized below.

### SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on October 31, 2006.

On April 30, 2010, the applicant received a negative Page 7 for failing to meet the weight standards as outlined in Article 2.F. of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Specifically, the Page 7 reported the following personal statistics for the applicant: 24 years old, 66 inches tall, 191 pounds, 35.5 inch waist, 15 inch neck, 42 inch buttocks and 37% body fat. She was therefore 21 pounds over her maximum allowed weight and 5% above the maximum allowable body fat percentage of 32%. The applicant was ordered to lose 21 pounds or drop to no more than 32% body fat by September 30, 2010, to comply with the Coast Guard's standards. In addition, as part of being on weight probation, she was required to complete both a personal wellness profile and a detailed fitness plan; to participate in a mandatory fitness activity at least one hour per day for three days per week; and to perform a monthly mandatory fitness assessment until her probationary period ended.

On October 1, 2010, because the applicant had shown significant improvement and a determination to comply with the Coast Guard's Weight and Body Fat Standards, the applicant was given an additional four weeks to meet the requirements of her weight probation.

On October 15, 2010, the applicant was found to have met the requirements of her weight probation.

On August 21, 2012, the applicant was issued her second Page 7 for failing to meet the weight standards as outlined in Article 2.F. of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Specifically, the Page 7 reported the following personal statistics for the applicant: 27 years old, 66 inches tall, 197 pounds, 40 inch waist, 14.5 inch neck, 43 inch buttocks and 43% body fat. She was therefore 27 pounds over her maximum allowed weight and 16% above the maximum allowable body fat percentage of 32%. The applicant was ordered to lose 27 pounds or drop to no more than 32% body fat by February 25, 2013, to comply with the Coast Guard's standards.

On October 30, 2012, in accordance Article 4.B. of the Weight and Body Fat Standards Program Manual, COMDTINST M1020.8, the applicant was determined to be exempt from the Coast Guard's weight and body fat standards due to being pregnant.

On June 6, 2014, the applicant was issued her third Page 7 for failing to meet the weight standards as outlined in Article 3.B.1 of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Specifically, the Page 7 reported the following personal statistics for the applicant: 28 years old, 66 inches tall, 184 pounds, 36.5 inch waist, 14.5 inch neck, 40.5 inch buttocks and 37% body fat. She was therefore 14 pounds over her maximum allowed weight and 5% above the maximum allowable body fat percentage of 32%. The applicant was ordered to lose 14 pounds or drop to no more than 32% body fat by November 6, 2014, to comply with the Coast Guard's standards. The applicant was informed that this was her second time on weight probation during her then-current enlistment period, which began on February 25, 2011,

and was set to expire on February 22, 2016, and that if placed on weight probation a fourth time during that same enlistment, she would become ineligible for reenlistment.<sup>4</sup>

On October 30, 2015, the applicant was issued her fourth Page 7 for failing to meet the weight standards as outlined in Article 3.B.1. of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Specifically, the Page 7 reported the following personal statistics for the applicant: 30 years old, 66 inches tall, 188 pounds, 37 inch waist, 14.5 inch neck, 40.5 inch buttocks, and 37% body fat. She was therefore 13 pounds over her maximum allowed weight and 3% above the maximum allowable body fat percentage of 34% for her age. The applicant was ordered to lose 13 pounds or drop to no more than 34% body fat by January 29, 2016, to comply with the Coast Guard's standards.

On a Page 7 dated January 14, 2016, the applicant was advised that she had met the weight and/or body fat standards and so her probationary period had ended.

On October 31, 2016, the applicant was issued her fifth Page 7 for failing to meet the weight standards as outlined in Article 3.B.1. of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Specifically, the Page 7 reported the following personal statistics for the applicant: 31 years old, 66 inches tall, 186 pounds, 35.5 inch waist, 15 inch neck, 41 inch buttocks and 35% body fat. She was therefore 11 pounds over her maximum allowed weight and 1% above the maximum allowable body fat percentage of 34%. The applicant was ordered to lose 11 pounds or drop to no more than 34% body fat by January 27, 2017, to comply with the Coast Guard's standards.

On a Page 7 dated January 17, 2017, the applicant was advised that she had met the weight and/or body fat standards and so her probationary period had ended.

On October 19, 2017, the applicant's SF-600 shows that she was seen by Coast Guard medical personnel as a follow up from an Emergency Room (ER) visit for heaviness in the chest. The doctor noted that the applicant's EKG and Coronary computed tomography angiography (CCTA) were normal, but the applicant was given a referral to cardiology. The doctor also noted that he suspected the applicant's symptoms were due to anxiety and panic, but the applicant was still given ER precautions. The applicant was put on two days of Sick in Quarters (SIQ) duty status.

On October 20, 2017, the applicant was assessed again by Coast Guard medical personnel and reported that she felt fine with nothing to report, but she still had mild chest discomfort. The doctor noted that the applicant's mild chest discomfort was most likely the result of Costochondritis<sup>5</sup> versus mild Pleurisy<sup>6</sup> and exacerbated by anxiety. The applicant's two days of SIQ were not extended.

---

<sup>4</sup> The Board reviewed the applicant's record and could not find a subsequent Page 7 documenting the applicant's satisfactory completion of this weight probation.

<sup>5</sup> NLM states that Costochondritis is the inflammation of breastbone cartilage. All but your lowest 2 ribs are connected to your breastbone by cartilage. This cartilage can become inflamed and cause pain. It is a common cause of chest pain.

<sup>6</sup> NLM defines Pleurisy as an inflammation of the lining of the lungs and chest (the pleura) that leads to chest pain when you take a breath or cough.

On November 1, 2017, the applicant was issued her sixth Page 7 for failing to meet the weight standards as outlined in Article 3.B.1. of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Specifically, the Page 7 reported the following personal statistics for the applicant: 32 years old, 66 inches tall, 203 pounds, 38.5 inch waist, 15 inch neck, 42.5 inch buttocks and 40% body fat. She was therefore 28 pounds over her maximum allowed weight and 6% above the maximum allowable body fat percentage of 34%. The applicant was ordered to lose 28 pounds or drop to no more than 34% body fat by May 15, 2018, to comply with the Coast Guard's standards.

On November 14, 2017, the applicant was seen at a spine and pain center for pain in her left neck and left wrist. The applicant described her pain as intermittent, throbbing, dull, aching, shocking, and moderate. The applicant stated the pain began suddenly three months earlier and without injury. The applicant rated her pain for that day as 2 out of 10, with an average pain level of 1 out of 10 and the worst pain having been 4 out of 10. The applicant reported symptoms of numbness, weakness, tingling and pins and needles, but denied loss of bowel control, bladder control, and burning or swelling. The applicant reported that sitting, lifting, bending forward, driving, and cold, damp weather aggravated her pain. The applicant further reported that mitigating factors included rest, avoiding strenuous activity, lying with a pillow between her legs, heat, stretching, pain medications, and massages. Finally, the applicant reported having parascapular<sup>7</sup> discomfort as well as numbness in her arms for the past 3 or 4 years. The applicant claimed that the pain in her left hand had also been going on for the same amount of time but had worsened over the previous few months. She reported her pain as a 2 out of 10 with a maximum pain of 4 out of 10. The doctor reported that the applicant was a smoker and counseled the applicant to stop smoking. The doctor also reported that the applicant's Body Mass Index (BMI) was above normal, indicating a concern for obesity. In the setting of pain, the doctor stated that her excess weight put additional strain on her joints, muscles, and spine and that further evaluation was warranted. The applicant was advised to see a dietician and undergo physical therapy for conditioning. The applicant was provided with educational materials and instructions discussing the connection between obesity and pain conditions. It was noted that the applicant had minimal disc bulging at C5-6 and C6-7. The doctor stated that he suspected the applicant's pain and weakness were the result of carpal tunnel syndrome. The applicant was scheduled to return within 2 weeks for cervical trigger point injections.

On November 24, 2017, the applicant was seen by Coast Guard medical personnel for a prescription renewal and lower abdominal pain. According to the medical record, the applicant told medical staff that she had begun experiencing lower abdominal pain a few weeks earlier. The applicant described the pain as a throb. The applicant told medical staff that when she worked out, the pain intensified. The applicant stated that the pain goes away when she laid down and took Motrin. The applicant admitted to medical staff that when she works out, she feels fine, but when she went to the bathroom, it felt like her lower stomach was going to fall out.

On December 4, 2017, the applicant returned to the spine and pain institute where she was given cervical trigger point injections for her neck pain. The doctors stated that because the applicant had bilateral neck pain and right arm numbness that was greater than her left arm, the

---

<sup>7</sup> Periscapular pain starts in the medial border of the scapula and travels the under the scapula. It is a common pain among office workers with slumped shoulders or athletes involved in overhead activities.

neck and arm pain was related to radiculopathy.<sup>8</sup> The doctor stated that there was no acute need for a surgical referral because the applicant did not have any progressive weakness, bowel or bladder loss, or intractable pain. However, the doctor also stated that if the applicant's Electromyography (EMG)<sup>9</sup> showed left carpal tunnel syndrome, the applicant would be referred to a hand surgeon. Finally, the doctor stated that he would consider a referral to a spine surgeon if the applicant did not have carpal tunnel syndrome and did not have significant, if temporary relief with the cervical epidurals. The applicant told her doctor that the EMG did not show any neural impingement.

On December 12, 2017, the applicant had axial CT images taken of her abdomen and pelvis before and after intravenous contrast. Reformatted coronal and sagittal images were also obtained. The images revealed that the applicant's lungs were clear, her liver was normal in size and contour, her pancreas enhanced normally, her spleen was within normal limits, her adrenal glands showed no adrenal nodules, her kidneys enhanced symmetrically with no nephrolithiasis or hydronephrosis, she had no bowel obstruction or bowel wall thickening, her aorta was normal in caliber, and her bladder was normally distended.

On January 3, 2018, the applicant visited the spine and pain institute again. She reported that the trigger point injections helped, and the Gabapentin helped a little. The applicant stated that she was having more neck pain and less pain radiating into her arms, though she did get more pain in her left arm than her right. The applicant again denied any bowel and bladder incontinence, fevers, chills, or worsening weakness. Upon review of the applicant's file, the doctor noted that the applicant had a minimal diffuse disc bulge at L5-L6 but no significant stenosis. The same was reported for C6-7, but there was a straightening of the cervical lordosis.<sup>10</sup> Lastly, the doctor reported that the applicant did have left hand weakness and had a positive flick sign. The doctor suspected that the applicant had carpal tunnel syndrome, despite the EMG being negative. The applicant also reported suffering from dry mouth, sleep disturbance, depression, and anxiety.

On January 17, 2018, the applicant visited the spine and pain institute again. The results and notes of this visit did not significantly change from her previous visits.

On January 29, 2018, the applicant was seen by a cardiologist for hypertension. The applicant reported no chest symptoms when she engaged in cardio-type exercise. The cardiologist noted the following:

ECHO 12/4/17 showed decreased LV fx, EF 40-45% with global dysfunction and diastolic dysfunction. There was trace tricuspid regurgitation and normal pulmonary pressures. History of present illness: The Patient is a 32 year old female. She reported: Medication reconciliation performed lisinopril 2.5, Coreg CR 10, Venlafaxine 75, Gabapentin 600 a day. Feeling the same and symptoms unchanged. No recent weight change. No cardiovascular symptoms, no chest pain or discomfort, no palpitations, no pounding heartbeat, the heart rate was not slow, and the heart rate was not fast. No dyspnea and no orthopnea. No fainting. Past medical/surgical history Diagnoses: No atrial fibrillation. No coronary artery disease.

---

<sup>8</sup> Radiculopathy is caused by a pinched nerve in your spine. More specifically, it happens when one of your nerve roots (where your nerves join your spinal column) is compressed or irritated.

<sup>9</sup> Electromyography (EMG) is a diagnostic procedure to assess the health of muscles and the nerve cells that control them (motor neurons). EMG results can reveal nerve dysfunction, muscle dysfunction or problems with nerve-to-muscle signal transmission.

<sup>10</sup> Lordosis is the medical definition for the forward curved spine in your neck or lower back.

No angina pectoris. Cardiomyopathy Hypertension Diastolic dysfunction. No asthma. No chronic obstructive pulmonary disease. No hyperlipidemia. No diabetes mellitus Procedural: PTCA was not performed. Stent(s) were not placed Surgical: No pacemaker placement. A CABG was not done. Personal history Habits: Good exercise habits. Review of systems Pulmonary: No cough and no pink and frothy sputum. Gastrointestinal: No abdominal swelling, no abdominal pain, and no bright red blood per rectum. Genitourinary: No change in urinary frequency and no nocturia. No urinary loss of control and no dysuria. Hematologic: No tendency for easy bruising. Neurological: No dizziness, no confusion or disorientation, and no focal disturbances. Physical findings Vital Signs: Current vital signs reviewed. General Appearance: Well-appearing. Alert. Well developed. Active. In no acute distress. Oral Cavity: General condition was good. Lungs: Respiration rhythm and depth was normal. Clear to auscultation. Cardiovascular: Jugular Venous Distention: JVD not increased. Heart Rate And Rhythm:

On February 7, 2018, the applicant was seen by Coast Guard medical staff for calf pain that she had been experiencing for about a week. The medical notes state that the applicant had had a positive D-Dimer Test<sup>11</sup> at a local ER where the applicant went for chest pain. The applicant had a CT scan, and the result was normal, so the ER sent the applicant home. The medical notes state that she was seeing a cardiologist, had had multiple tests done, and was put on multiple blood pressure medications. The applicant told medical staff that during the previous two days she had felt her heart flutter and random leg weakness. The applicant's blood pressure—taken twice for accuracy—was 144/98. The applicant was marked by her Primary Care Manager as Fit for Full Duty.

On March 9, 2018, the applicant again visited the spine and pain institute where she received cervical interlaminar epidural steroid injections.<sup>12</sup> The medical notes were almost identical to the previous medical notes.

On April 3, 2018, while still on weight probation from the Fall 2017 weigh-in, the applicant was issued her seventh Page 7 for failing to meet the weight standards as outlined in Article 3.B.1. of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Specifically, the Page 7 reported the following personal statistics for the applicant: 32 years old, 66 inches tall, 201 pounds, 37 inch waist, 15.5 inch neck, 41 inch buttocks and 36% body fat. She was therefore 26 pounds over her maximum allowed weight and 2% above the maximum allowable body fat percentage of 34%. The applicant was ordered to lose 26 pounds or drop to no more than 34% body fat by May 15, 2018, to comply with the Coast Guard's standards.

On April 6, 2018, the applicant again visited the spine and pain center where she received her third cervical interlaminar epidural steroid injections. The applicant reported that her pain was a 3 out of 10 and that she had experienced about 50% relief of her pain for about a week after her prior steroid injections. The doctor discussed alternate procedures with the applicant.

On April 19, 2018, the applicant visited her mental health provider and reported that she believed the Effexor had helped with some of her anxiety. The applicant stated that she had a low

---

<sup>11</sup> The Cleveland Clinic states that a D-dimer test is a blood test that measures D-dimer, which is a protein fragment that your body makes when a blood clot dissolves in your body.

<sup>12</sup> The NLM states that epidural steroid injections do not induce weight gain. The NLM stated that it found no significant change in weight administration after a series of three epidural steroid injections. Epidural steroid injections do not induce weight gain - PubMed (nih.gov).



mood with mild anhedonia<sup>13</sup> on several days, was sleeping only 4 to 6 hours per night, had an increased appetite, felt fatigue on more days than not, and had mild issues with feeling poorly about herself, trouble concentrating, and fleeting thoughts of suicide, which had diminished over the previous several weeks. The applicant denied panic or anxiety attacks but related nervousness, restlessness, and irritability on more days than not. The applicant admitted to consuming 3 or 4 alcoholic drinks at a time about 3 times per week.

On May 7, 2018, the applicant visited the spine and pain center again. She reported that after her third steroid injection, she did not notice any benefits. The applicant further reported that she continued to have pain radiating into the left right arm and continued to experience weakness and numbness in her left hand. An MRI taken on May 4, 2018, of the applicant's spine showed that there was mild C-3-4 disc bulging, C4-5 was unremarkable, C5-6 had mild disc bulging with anterior endplate osteophytic spurring, and C6-7 had mild disc bulging with anterior endplate osteophyte spurring.<sup>14</sup>

On May 8, 2018, the applicant visited her mental health provider where she reported that her medications were working, and she was less irritable and reactive. The mental health provider noted that the applicant was able to perform her military duties.

On May 9, 2018, the applicant was seen by Coast Guard medical staff for severe constipation. The medical notes state that the applicant had run out of her prescription and needed a refill. The applicant reported that the over-the-counter medications were not working and instead giving her severe cramps. She was scheduled for a colonoscopy. The applicant was marked as Fit for Fully Duty by her Primary Care Manager.

On May 11, 2018, the applicant was seen by Coast Guard medical for a medical officer to sign off on her weight probation paperwork. However, the notes state that the applicant was unable to provide the proper documentation to the medical officer and so her appointment was rescheduled. After her visit, the applicant was marked as Fit for Fully Duty by her Primary Care Manager.

On May 15, 2018, the applicant was issued a Page 7 for failing to meet the terms of her weight probationary period, which had begun on November 1, 2017. The Page 7 recorded the applicant's weight of 206 pounds and 42% body fat. The applicant was informed that due to her failure to meet the Coast Guard's Weight and Body Fat Standards pursuant to Article 4.A. of COMDTINST M1020.8, she would be recommended for separation.

On May 15, 2018, the applicant was again seen by Coast Guard medical in order to have her weight program medical paperwork signed by a medical officer. The medical notes state that she had failed to meet weight standards at the conclusion of her probationary period, but her command was seeking a waiver. It was also noted that the applicant reported back pain making it difficult for her to complete running and jumping exercises, and as a result she had refrained from

---

<sup>13</sup> Anhedonia is the inability to feel pleasure.

<sup>14</sup> NLM defines osteophytes as abnormal growths of bone (osteophytes) and other tissue can also occur, and may be visible as enlarged joints. They can also form on the bones of your spine. The main cause of bone spurs is the joint damage associated with osteoarthritis.

doing these things. In the assessment portion of the applicant's medical records, the medical staff noted that the applicant's weight had been stable over the past 3 years with no significant or sudden weight gain, despite multiple medical issues, and that her weight loss "remains a predominately dietary issue." Medical staff further noted that the applicant did not appear to have lost any significant weight or made any progress in her required weight loss. Although the applicant was told to refrain from running, jumping, and squats, she remained fit to do her job as a Yeoman. At the conclusion of this visit, the applicant was marked as Fit for Full Duty. That same day, on the Duty Status profile form, the applicant's medical officer noted that she was Fit for Full Duty and that running and jumping were not required or limiting for the applicant. Finally, the medical officer noted that after a review of the applicant's medical record, the medical officer was unable to endorse a medical basis for the applicant's weight loss.

On May 15, 2018, the applicant's Commanding Officer (CO) issued a memorandum wherein he requested that in accordance with the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8, the applicant be granted an abeyance of the weight and body fat standards. The CO stated that the applicant had been under the care of a physician since October 2017 and had been unable to lose weight. According to the CO, the applicant's medical conditions, the medications prescribed for her neck and shoulder pain and her depression and anxiety made it difficult for the applicant to lose weight.

On May 17, 2018, the applicant's CO issued a memorandum, "Notification of Intent to Discharge," wherein he notified the applicant that he had initiated separation proceedings against her for failure to comply with the Coast Guard's Weight and Body Fat standards. The CO stated that he recommended that the applicant receive an Honorable discharge by reason of Convenience of the Government. The applicant was informed of her right to submit a personal statement. On this same date the applicant acknowledged her CO's memorandum via a First Endorsement, wherein she reserved her right to submit a personal statement and objected to her discharge. She also acknowledged her right to consult with a military attorney.

On May 22, 2018, the applicant submitted her personal statement, which reads as follows:

1. I am writing this statement in reference to my notification of discharge. I passionately object to being discharged as I have served in the Coast Guard for the last 11 years with intentions of serving until I retire. I have made it my career to being an asset to each duty station I have been attached to and my sincere desire is to continue my service.
2. The combination of my health issues have been a barrier to achieving Coast Guard weight and body fat standards. I am currently under the care of a pain management specialist, a psychiatrist and a psychologist to facilitate my recovery and get me back on track. However, I in no way feel that my bodyweight impedes me from doing my job effectively.
3. Hopefully I will be able to more successfully manage my weight with the addition of exercise as I have been unable to manage it through diet alone. I submitted a medical abeyance request with the support of my command and it is currently pending with CG PSC-[redacted]. At this time it is my intention to seek reenlistment if in fact I am discharged. It has been my pleasure to serve.

On May 23, 2018, the applicant's Primary Care Manager noted that the applicant met retention standards of Chapter 3, AR 40-501 and AR 635-200 for fitness, was suitable for continued service, and qualified for world-wide service and for Temporary Duty and deployments.

On May 23, 2018, the applicant visited her mental health provider who classified the session as a “crisis” session and noted that the applicant had failed her weight probation and that she would be processed for separation within 30 to 60 days pending an appeal submitted by her commander. The applicant cried frequently and stated that she would survive if she left the Coast Guard, but it would be difficult because she had four children. The majority of the session was spent dealing with the applicant’s feelings of discouragement and “being out of control.” The applicant stated that she wanted to request a medical board. The mental health provider counseled the applicant to stop drinking as it leads to weight gain and was only a way of “medicating problems.” The mental health provider noted that the applicant was fit to perform her military duties.

On May 29, 2018, the applicant visited her mental health care provider where she reported the presence of acute anxiety related to failing her weight probation and being notified that she would be separated from the Coast Guard as a result, which she learned a week prior. The applicant stated that the news caused her to experience worry, nervousness, trouble relaxing, and feeling as if something awful was going to happen. The applicant informed her provider that she had submitted a waiver request to remain in the Coast Guard and that she felt her life was in limbo until she received the Coast Guard’s decision on her waiver request. The applicant reported anhedonia on more days than not, along with poor appetite and fatigue. The applicant also reported feeling bad about herself every day during the previous two weeks. In addition to feeling poorly about herself, the applicant also reported feeling anxiety, which she described as “chest pressure, shaking, sweating and shortness of breath” which would last for a couple of hours to a couple of days.

On May 30, 2018, the applicant visited her mental health care provider and discussed her failure to pass weight probation and her pending separation from the Coast Guard. The applicant reported anhedonia on more days than not, along with poor appetite and fatigue. The applicant also reported feeling bad about herself daily for the previous two weeks, but denied problems with concentration and/or suicidal ideation. However, the applicant told her mental health care provider that she did have fleeting thoughts that she would like for this life to end, but she would never take her own life because she had children. The applicant admitted to experiencing anxiety attacks over the previous two weeks, which she described as “chest pressure, shaking, sweating and shortness of breath” which lasted from a couple of hours to a couple of days. The mental health care provider stated that the applicant may have been exhibiting traits of borderline personality disorder, specifically, related to the applicant’s fear of abandonment and failed personal relationships. The applicant told her provider that she had ceased consuming alcohol which meant she no longer had the alcohol to keep her out of her own head. The applicant’s mental health care provider stated that the applicant was fit to perform her military duties.

On May 31, 2018, the applicant’s CO’s request for an abeyance for the applicant was denied. The memorandum from PSC stated that as a matter of policy, all medically related weight abeyance requests are treated as unique and reviewed by the Medical Evaluations Branch located in PSC prior to final determination. PSC stated that in this instance, a weight abeyance for the applicant was not justified because her diagnosis and pharmacological treatment did not preclude the loss of excess weight and/or body fat. PSC recommended that the applicant follow a safe and

effective weight-loss program to include healthier eating habits and an exercise routine. PSC stated that the applicant's Primary Care Manager should refer her to the nearest Health and Wellness Coordinator or nutritionist.

On June 6, 2018, the applicant's CO issued a memorandum wherein he recommended the applicant for discharge due to her continued failure to meet Coast Guard Weight and Body Fat standards. The CO further recommended that the applicant be given an Honorable discharge by reason of Convenience of the Government.

On June 6, 2018, the applicant visited her mental health care provider and discussed feeling conflicted about staying in the Coast Guard because she wanted to go to nursing school, but remaining in the Coast Guard was in conflict with that. The applicant continued to feel overwhelmed. She discussed immediate goals of remaining on active duty with her mental health care provider. Specifically, she discussed trying to meet the weight standards and overcoming her procrastination and self-defeating behaviors. The applicant told her mental health care provider that she had stopped drinking because it had caused her to gain weight and so she was not "medicating" her problems. The health care provider noted that the applicant was fit to perform her military duties.

On June 14, 2018, the applicant visited her mental health care provider and reported that she felt a little less anxious and upset because she found out that her appeal to stay in the Coast Guard had been denied, which allowed her to plan. The applicant further reported that she was able to sell her house and move, which was a huge stress reliever. The applicant reported that her worry and nervousness had improved and were manageable. The applicant stated that she had an increase in irritability because she had recently found out "who her friends were" after she had to move out of her house with only the help of her 14 year old child. The applicant denied a depressed mood or anhedonia, problems with appetite, and feeling bad about herself.

On July 26, 2018, the applicant visited her mental health care provider and informed him that since her last visit, she had been separated from the Coast Guard. The applicant stated that she had filed for a "congressional" related to her separation because she felt her separation was not handled correctly. The applicant also discussed the murder of her cousin and returning to her hometown to help her aunt deal with the loss and plan the memorial service. The applicant reported having a depressed mood with anhedonia on more days than not, poor sleeping (averaging 4 hours per night since her separation from the Coast Guard), fatigue, fluctuating appetite, and feeling poorly about herself nearly every day, but she denied current suicidal ideation.

On October 25, 2018, to fix her uterine prolapse, the applicant underwent robotic laparoscopic sacrocolpopexy with anterior and posterior repair, mid urethral mesh sling replacement, and cystoscopy. No complications were noted.

On April 22, 2019, the applicant's VA physician noted that the applicant's weight was 218.7 pounds and that the physician had discussed the risks of obesity with her in addition to the benefits of weight loss. The physician recommended the applicant take part in a weight management program, but the applicant refused the physician's referral and other weight loss programs.

On June 20, 2019, the applicant was seen by a VA physician who noted that he had had a brief conversation with the applicant to provide her with information about her weight and BMI, which indicated that the applicant was overweight/obese. The doctor informed the applicant that there were certain health risks associated with her weight and BMI such as hypertension, diabetes, and heart disease. The physician informed the applicant that treatment was available, but the applicant refused treatment. The applicant's weight was recorded as 222.8 pounds. The physician noted a previous medical history of benign essential hypertension, cervical radiculopathy, generalized anxiety disorder, and irritable bowel syndrome.

### VIEWS OF THE COAST GUARD

On February 17, 2022, a Judge Advocate (JAG) for the Coast Guard submitted an advisory opinion in which he recommended that the Board grant partial relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

The JAG stated that while the applicant did not provide evidence that the Honorable Discharge certificate she was originally provided was lost or destroyed, and her DD-214 does indicate that she was issued one, because she was honorably discharged, she is entitled to an Honorable Discharge Certificate and should be given one.

The JAG argued that the applicant failed to provide sufficient evidence to establish the Coast Guard committed an error or injustice when discharging her for her failure to satisfy the terms of her weight probation. The JAG explained that although the applicant alleged that her record should have been reviewed by a medical board, the sole criteria for being referred to an MEB is to assess the member's ability to perform the duties of her office, grade, rank of rating due to a disease or injury incurred or aggravated by military service. The JAG further explained that the PDES manual states that a member must be referred to an MEB, by an authorized authority, or fit one of the situations provided in Article 3.D. of the manual. Here, the JAG argued that there is no record of the applicant having been referred to an MEB by medical professionals, despite being seen by Coast Guard medical officers on numerous occasions. In addition, the JAG claimed that the applicant's situation did not fall onto one of the enumerated situations in Article 3.D of the manual. The JAG stated that while the applicant's medical record shows she had impairments, they were not preventing her from doing her job or performing her duties. The JAG argued that the overwhelming majority of the applicant's medical assessments, including those that took place immediately before and after the applicant's weight probation, noted that the applicant was Fit for Full Duty. Moreover, the JAG stated that in the applicant's separation physical, which listed the applicant's various additional medical conditions, the medical officer still found the applicant Fit for Full Duty. Accordingly, the JAG argued that the applicant failed to prove that an error or injustice took place when she was not referred to an MEB.

The JAG argued that the applicant's separation for exceeding weight standards was also proper. The JAG stated that throughout the applicant's current enlistment, and the periods of service prior to that, the applicant had been placed on weight probation multiple times. The JAG argued that on November 1, 2017, the applicant was told that she had until May 15, 2018, to become compliant with the Coast Guard's Weight and Body Fat standards, and that failure to do so would result in her being processed for separation. The JAG explained that on May 15, 2018,

at the expiration of the applicant's weight probation, the applicant was seen by a medical officer and provided a Page 7 for failing to become compliant. The JAG explained that while the applicant contended that she was unable to gain compliance due to the medical conditions, the medical officers who treated the applicant throughout her probationary period and who were familiar with her medical history specifically remarked that her failure to lose the required weight was because of her diet and not her medical conditions. Specifically, the medical officer who treated the applicant on the last day of her probationary period stated, "Despite multiple medical issues weight loss remains predominantly a dietary issue but the [patient] does not appear to have lost any significant weight or made any progress in weight loss." The JAG explained that the medical officer noted that the applicant was Fit for Full Duty because the activities the applicant was precluded from doing (running and jumping), were not required for her position as a Yeoman. Furthermore, the JAG argued that the medical specifically stated that the applicant was cleared for walking and riding a stationary bike.

The JAG explained that after failing her weight probation, the applicant's command applied for an abeyance from the Coast Guard's weight and body fat standards, which resulted in her medical history being reviewed de novo by the Coast Guard's Medical Evaluations Branch, which, after having reviewed the applicant's medical history, denied the abeyance. The JAG further explained that following the denial of the applicant's abeyance, her command properly initiated separation proceedings against the applicant in accordance with the Coast Guard's Weight and Body Fat Standards Program Manual, COMDTINST M1020.8. Accordingly, the JAG argued that the applicant's separation was conducted in accordance with Coast Guard policy and because of that, the applicant has failed to prove any error or injustice has taken place.

Regarding the applicant's claim that "These doctors made willy nilly decisions that completely changed my life in a review that could have no way been comprehensive enough," the JAG argued that the record shows that the applicant's medical case was thoroughly reviewed multiple times—at the beginning of weight probation, at the end of weight probation, during weight probation when she went to medical for various complaints, and again during her medical abeyance request—and her medical issues were found to not be limiting the applicant's ability to lose weight. Accordingly, the JAG argued that the applicant's allegations of injustice are insufficient to overcome the presumption of regularity afforded to the Coast Guard that its administrators acted correctly, lawfully, and in good faith.<sup>15</sup>

The JAG argued that the applicant failed to provide any evidence or documentation that she was entitled to and met the criteria for the Coast Guard Achievement Medal for her time served at her previous duty station between 2011 and 2015. The JAG further argued that the applicant failed to provide any evidence or documentation to prove her eligibility for the Coast Guard Commendation Medal for her time served between 2015 and 2018. Regarding the applicant's Good Conduct Medal, the JAG explained that the applicant's record shows that she received the medal on October 30, 2015, and subsequent awards are authorized for each additional 3 years of satisfactory service. The JAG stated that the applicant would have been eligible to receive the medal gain on October 30, 2018, but was separated before she completed 3 additional years of service.

---

<sup>15</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).

To the extent that the applicant requested that the Board “[c]orrect my records with DHS that has kept me from being hired for three positions...,” the JAG argued that again the applicant failed to show that any records are erroneous or warrant correction. The JAG further argued that the applicant pointed to no specific records that are preventing her from gaining employment, and even if she had pointed to a specific record, the applicant failed to prove and causal relationship between her military records and not being hired for a position.

Finally, regarding the applicant’s request for a Coast Guard retirement certificate, the JAG explained that the retirement certificate is predicated on the successful completion of 20 years of service. In the applicant’s case, the JAG stated that the applicant entered active duty on October 31, 2006, and was separated on July 16, 2018, serving a total of 11 years, 8 months, and 16 days. Accordingly, the JAG argued that the applicant served less than 20 years and is not eligible for a retirement certificate and her request for relief should be denied.

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

On October 22, 2022, the Chair sent the applicant a copy of the Coast Guard’s advisory opinion and invited her to respond within thirty days. As of the date of this decision, no response has been received.

### **APPLICABLE LAW AND POLICY**

The Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8H (series) in effect in 2016 provides the following guidance on Coast Guard weight standards and screening:

**Article 2.A.1. Semiannual (April & October).** All Coast Guard military personnel shall be screened against weight and body fat standards every April and October.

...

**Article 3.B.1. Requirement for Documentation.** All members found non-compliant with Weight and Body Fat Standards during any weigh-in must sign the form CG-3307 documenting their non-compliance unless covered by an abeyance or exemption as listed in chapter 5 of this Manual.

...

**Article 3.D.4. Probation Duration.**

a. Probationary periods begin immediately upon a non-compliant weigh-in and shall not exceed eight months or 35 weeks.

b. The probationary period shall equal the amount of time it would take the member to lose all excess body fat at an average of one percent body fat per month or one pound per week, whichever is greater, unless the probationary period would exceed 35 weeks.

...

Article 5 of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8H, provides the following guidance on weight abeyances:

**Article 5.A. Medical Abeyances.**

1. Approving Authority. CG PSC-psd is the approving official for all medical abeyance/exemption requests. Each medically related abeyance request will be treated as unique and evaluated on a case-by-case basis. Commands should not forward requests for medical abeyances to CG PSC-psd until a diagnosis is made. Awaiting a medical diagnosis or abeyance decision does not constitute reason to waive or delay weight screening, documentation, and/or probation procedures.

2. Intent. The intent of authorizing a medical abeyance is to avoid penalizing a member who may non-compliant due to medical conditions/medications that directly contribute to weight gain. Injuries or illnesses that interfere with a member’s ability to exercise are not grounds for a medical abeyance. Commands do not have to wait until a member is found non-compliant to request a medical abeyance.

3. Abeyance Examples.

a. Medical abeyance requests will only be granted for cases involving diagnosed physiological medical conditions or use of prescription medications (which are not disqualifying for continued service) that contribute to the member’s inability to maintain compliance with weight standards.

b. Abeyance requests that stem from medical conditions which may restrict a member’s ability to exercise, but otherwise have no physiological impact on the member’s ability to lose weight/body fat through proper diet or exercise, will not be approved.

c. The following chart provides some representative examples of qualifying and non-qualifying medical conditions;

Qualifying Medical Examples	Non-Qualifying Medical Examples
<ul style="list-style-type: none"> <li>• Hypothyroidism</li> <li>• Polycystic Ovarian Syndrome</li> <li>• Prescribed Corticosteroids</li> </ul>	<ul style="list-style-type: none"> <li>• Depression</li> <li>• Twisted Ankles</li> <li>• Pulled Muscles</li> <li>• Broken Bones</li> <li>• Lower Back Pain</li> </ul>

Article 12.B.12 of the Military Separations Manual provides the following guidance on separating members for “Convenience of the Government” due to failing the Coast Guard’s weight and body fat standards:

**12.B.12.a. Reasons for Discharge.** Commander (CG PSC) may authorize or direct enlisted members to separate for the convenience of the Government for any of these reasons. Except as otherwise indicated below, members separated for the convenience of the Government are not entitled to an administrative discharge board.

...

10. Obesity, provided a medical officer certifies a proximate cause of the obesity is excessive voluntary intake of food or drink, rather than organic or other similar causes apparently beyond the member’s control.



The Physical Disability Evaluation System (PDES) Manual, COMDTINST M1850.2D, Article 2.A.38. defines “physical disability” as “[a]ny manifest or latent physical impairment or impairments due to disease, injury, or aggravation by service of an existing condition, regardless of the degree, that separately makes or in combination make a member unfit for continued duty.”

Article 2.C.2. of the same manual states the following:

**Fit for Duty/Unfit for Continued Duty. The following policies relate to fitness for duty:**

a. The sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of office, grade, rank or rating because of disease or injury incurred or aggravated through military service. Each case is to be considered by relating the nature and degree of physical disability of the evaluatee concerned to the requirements and duties that a member may reasonably be expected to perform in his or her office, grade, rank or rating. In addition, before separation or permanent retirement may be ordered:

(1) There must be findings that the disability:

(a) is of a permanent nature and stable, and

(b) was not the result of intentional misconduct or willful neglect and was not incurred during a period of unauthorized absence.

...

b. The law that provides for disability retirement or separation (10 U.S.C. 61) is designed to compensate a member whose military service is terminated due to a physical disability that has rendered him or her unfit for continued duty. That law and this disability evaluation system are not to be misused to bestow compensation benefits on those who are voluntarily or mandatorily retiring or separating and have theretofore drawn pay and allowances, received promotions, and continued on unlimited active-duty status while tolerating physical impairments that have not actually precluded Coast Guard service. The following policies apply:

(1) Continued performance of duty until a member is scheduled for separation or retirement for reasons other than physical disability creates a presumption of fitness for duty. This presumption may be overcome if it is established by a preponderance of the evidence that:

(a) the member, because of disability, was physically unable to perform adequately in his or her assigned duties; or

(b) acute, grave illness or injury, or other significant deterioration of the member’s physical condition occurred immediately prior to or coincident with processing for separation or retirement for reasons other than physical disability which rendered him or her unfit for further duty.

(2) A member being processed for separation or retirement for reasons other than physical disability shall not be referred for disability evaluation unless the conditions in articles 2.C.2.b.(1)(a) or (b) are met.

(3) The determination of a grave or serious condition or significant deterioration must be made by a competent Coast Guard medical officer. Such medical authority will consult with the CGPC senior medical officer, as necessary, to ensure proper execution of this policy in light of the member’s condition. The member’s command may concurrently submit comment to the CGPC senior medical officer.

c. If a member being processed for separation or retirement for reasons other than physical disability adequately performed the duties of his or her office, grade, rank or rating, the member is deemed fit for duty even though medical evidence indicates he or she has impairments.

...

i. The existence of a physical defect or condition that is ratable under the standard schedule for rating disabilities in use by the Department of Veterans Affairs (DVA) does not of itself provide justification for, or entitlement to, separation or retirement from military service because of physical disability. Although a member may have physical impairments ratable in accordance with the VASRD, such impairments do not necessarily render him or her unfit for military duty. A member may have physical impairments that are not unfitting at the time of separation, but which could affect potential civilian employment. The effect on some civilian pursuits may be significant. Such a member should apply to the DVA for disability compensation after release from active duty.

### FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on 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.
2. The application was timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).
3. The applicant alleged that the given her medical issues, her administrative discharge for failure to adhere to Coast Guard Weight and Body Fat Standards was erroneous and unjust as she should have been medically retired. The applicant further alleged that she should have been awarded the Coast Guard Achievement Medal for serving her Sector from May 8, 2011, through May 29, 2015, the Coast Guard Commendation Medal for her time served at PSC from June 19, 2015, through July 16, 2018, and the Coast Guard Good Conduct Medal for her 12<sup>th</sup> year of service achieved in October 2018. 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 the military record, and the applicant bears the burden of proving, by a preponderance of the evidence, that the disputed information is erroneous or unjust.<sup>16</sup> 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."<sup>17</sup>
4. The applicant claimed that her varying medical conditions should have resulted in a medical retirement, instead of being administratively discharged for her failure to abide by the Coast Guard's weight and body fat standards. For the following reasons, the Board disagrees:
  - a. Medical Conditions. The record shows that the applicant was treated for multiple medical conditions while on active duty, including backpain, shoulder pain, and stomach pain. However, these complaints never resulted in the applicant being diagnosed with a condition

---

<sup>16</sup> 33 C.F.R. § 52.24(b).

<sup>17</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).

that rendered her unfit to do her job. Article 2.A.38. of the Physical Disability Evaluation System (PDES) Manual, COMDTINST M1850.2D, defines “physical disability” as “[a]ny manifest or latent physical impairment or impairments due to disease, injury, or aggravation by service of an existing condition, regardless of the degree, that separately makes or in combination make a member unfit for continued duty.” Article 2.C.2.a. of the same manual states, “The sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of office, grade, rank or rating because of disease or injury incurred or aggravated through military service.” Finally, Article 2.C.2.b.1. states, “Continued performance of duty until a member is scheduled for separation or retirement for reasons other than physical disability creates a presumption of fitness for duty.”

Here, the record shows that despite the applicant’s medical conditions, she was repeatedly found fit for duty and continued to perform her duties. Therefore, she was presumptively fit for duty pursuant to COMDTINST M1850.2D when she was processed for separation for reasons other than a physical disability. Moreover, when the applicant contested her discharge in her May 22, 2018, statement, she wrote that her weight had not prevented her from doing her job and that if discharged, she planned on reenlisting. At no point during her separation proceedings did the applicant claim her alleged medical conditions prevented her from doing her job. On the contrary, and as already stated, the applicant contested her discharge, wanted to remain in the Coast Guard, and believed she was capable of doing her job. This is supported by the Board’s review of the applicant’s medical file which showed that despite her several complaints and ailments, none of the applicant’s treating physicians found that she was incapable of doing her job or that she should be evaluated by a medical board. Finally, the applicant’s medical records from the spine and pain center show that despite her complaints, the applicant’s pain did not prevent her from doing her job. The applicant’s record shows that despite her many visits to the spine and pain center, her physician never recommended her for light duty or raised concerns that she was unable to perform her duties as a result of her ailments.

Finally, the record shows that despite the applicant’s claims that she was ordered to refrain from all forms of exercise, she was permitted to continue walking and riding a stationary bike. Moreover, on May 15, 2018, the applicant’s military physician, after reviewing her medical file in its entirety, noted that he was unable to endorse a medical basis for the applicant’s weight control failure. He further noted that there were no medical diagnoses or medications that could be contributing to the applicant’s excess weight and that the applicant’s weight had been relatively stable for the past few years and appeared to be a dietary issue. This is further supported by a July 26, 2018, mental health note wherein the physician encouraged the applicant to refrain from drinking because it only added to her difficulties in losing weight and adhering to the Coast Guard weight and body fat standards. These records are presumptively correct and Article 12.B.12.a.10. of the Military Separations Manual, COMDTINST M1000.4, required that the applicant be separated due to obesity after she failed weight probation. Therefore, the applicant has failed to prove, by a preponderance of the evidence, that she should have been referred to a medical board because her conditions prevented her from performing her duties and losing weight.

- b. Mental Health Conditions. The applicant alleged that she suffered from mental health conditions as a result of her time in the Coast Guard and should have been medically retired. However, the applicant's medical records cast substantial doubt on the applicant's claims of mental disability prior to her discharge. First, the record shows that during her mental health visits, the applicant primarily addressed her worry and anxiety over her Coast Guard career as a result of being placed on weight probation for the seventh time. Although the applicant did address other personal issues, such as having to sell her house and being taken advantage of by others, the center of her worry and anxiety was the result of her weight probation and the possibility of losing her career. There is no indication in any of her contemporaneous mental health files that her mental health conditions were disabling. Second, despite the applicant's symptoms of depression and anxiety, her mental health care provider continued to find that she was fit to perform her military duties. Therefore, the applicant has failed to prove, by a preponderance of the evidence, that she was unable to perform her duties due to her mental health conditions, and that she should have been given a medical retirement.
- c. Medications. A review of the record shows that the applicant took varying medications for pain, depression, and IBS and that despite taking these medications, the applicant maintained a consistent body weight, without any major weight fluctuations, both before and after her discharge. Moreover, there is no medical record stating that the medications were making it difficult for her to lose the necessary weight to comply with the Coast Guard's weight and body fat standards. On the contrary, multiple medical professionals who evaluated the applicant found that the applicant's weight gain was not due to her pharmaceutical treatments, but the result of dietary issues. Finally, she has not shown that the medications she was taking physiologically cause weight gain. Therefore, the applicant has failed to prove, by a preponderance of the evidence, that her medications caused her to gain excess weight.

5. Weight Abeyance. The applicant alleged that the Coast Guard erred in not giving her a weight abeyance because had she been given the abeyance, she would have had extra time to recover and do the exercise needed to lose the weight and save her career. However, during her months-long probationary period, the applicant had gained weight instead of losing weight and had not stopped drinking alcohol as her doctors advised. A May 31, 2018, note from the applicant's physician stated that the applicant's diagnosis and pharmacological treatments did not preclude the loss of excess weight and/or body fat and that the applicant's excess weight was a dietary issue. Moreover, none of the applicant's conditions were of the kind listed in Article 3.D. of COMDTINST M1850.2D that justify an abeyance of the weight and body fat standards because they physiologically cause weight gain. Although the applicant alleged that Coast Guard officials reviewed her record "willy nilly" and could not have provided a thorough review of her record, the preponderance of the evidence shows that the proper officials reviewed the applicant's record and found that her medical conditions and pharmaceutical treatments did not meet the requirements for a weight abeyance. Therefore, the applicant has failed to prove, by a preponderance of the evidence, that the Coast Guard erred by not granting her an abeyance of the weight and body fat standards.

6. The applicant alleged that the Coast Guard erroneously and unjustly failed to award her the Coast Guard Achievement Medal for serving at a Sector from May 8, 2011, through May 29, 2015; the Coast Guard Commendation Medal for her service at PSC from June 19, 2015, through July 16, 2018; and the Coast Guard Good Conduct Medal for her twelfth year of service achieved in October 2018. However, the applicant failed to submit any evidence that she was entitled to receive these awards and she was discharged from active duty before she completed her twelfth year of service.

7. Regarding the applicant's claim that she was denied three different positions within DHS because her records were erroneous, and her debt was listed as bad debt, the applicant has failed to identify any specific records that were erroneous, so the Board has no way of knowing which records to review for errors and/or injustices. Finally, the applicant has failed to submit any evidence that any allegedly erroneous records prevented her from obtaining a position with DHS.

8. The applicant alleged that she was never provided with an Honorable Discharge Certificate. Therefore, the Coast Guard should provide the applicant with this certificate.

9. The applicant made varied allegations and arguments against the Coast Guard and its officials. Those allegations not specifically addressed above are considered to be unsupported by substantial evidence sufficient to overcome the presumption of regularity and/or are not dispositive of the case.<sup>18</sup>

10. For the reasons outlined above, the applicant has not met her burden, as required by 33 C.F.R. § 52.24(b), to overcome the presumption of regularity afforded the Coast Guard that its administrators acted correctly, lawfully, and in good faith.<sup>19</sup> She has not proven, by a preponderance of the evidence, that the Coast Guard erroneously denied her a medical board, medical retirement, a weight abeyance, and Coast Guard awards. Accordingly, the applicant's primary requests should be denied, but partial relief is granted. The Coast Guard should provide the applicant with an Honorable Discharge Certificate.

---

<sup>18</sup> 33 C.F.R. § 52.24(b); see *Frizelle v. Slater*, 111 F.3d 172, 177 (D.C. Cir. 1997) (noting that the Board need not address arguments that "appear frivolous on their face and could [not] affect the Board's ultimate disposition").

<sup>19</sup> *Muse v. United States*, 21 Cl. Ct. 592, 600 (1990) (internal citations omitted).

ORDER

The application of former YNC [REDACTED] [REDACTED] USCG, for correction of her military record is granted in part: The Coast Guard shall issue her an Honorable Discharge Certificate.

September 22, 2023

[REDACTED]  
Digitally signed by [REDACTED]  
Date: 2023.10.02  
15:30:39 -04'00'

[REDACTED]  
Digitally signed by [REDACTED]  
Date: 2023.10.02  
15:35:36 -04'00'

[REDACTED]

[REDACTED]  
Digitally signed by [REDACTED]  
Date: 2023.10.02 16:37:57  
-04'00'