



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 01939-01
20 July 2001

LTJG [REDACTED]

Dear Lieutenant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested correction of your record to show your original officer appointment was temporary, rather than permanent, and to show you received all enlisted advancements in due course.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 July 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Nurse Corps Community Manager dated 9 May 2001, a copy of which is attached. The Board also considered your letter dated 12 July 2001.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly; your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

9 May 2001

MEMO FOR BCNR COORDINATOR (PERS-00ZCB)

From: CAPT. [REDACTED] NC, USN, Nurse Corps Officer Community Manager (N131M5)

Subj: ADVISORY OPINION ICO [REDACTED] SNR, [REDACTED]

1. The basis for this request is based on the alleged fact that correct information was not made available to the individual. Correct resources for the information needed include instructions, Title 10, NAVADMINs, detailers, NSHS who administers the program and the Officer Community Manager who manages the program.

2. Individual was selected for the MECP program for FY95 at which time BUPERSINST 1131.3 (PERS251) 8 February 1994 was in effect (Attachment 1). Page 4, paragraph 8 of noted instruction delineates appointment and service obligation:

"Upon successful completion of the requirements for a baccalaureate degree in nursing (certified by the college/university), the candidate will be appointed in the grade of ensign in the Nurse Corps, U.S. Naval Reserve, per 10 U.S.C. 593 and under the guidance of reference (b). Appointees incur an 8 year obligation upon commissioning, 4 of which must be served on active duty."

Reference (b) referred to in the above paragraph is SECNAVINST 1120.6B which is attached to the [REDACTED] request. BUPERSINST 1131.3 is attached to [REDACTED] request, however, pages 2,4,6 are absent.

3. The last page of BUPERSINST 1131.3 (Attachment 1), which is included in [REDACTED] package, is a flier to be displayed by command career counselors and delineates the 8 year service obligation of which 4 years must be served on active duty.

4. All sources of information applicable at the time the [REDACTED] accepted commissioning were congruent in the use of the term 'appointment', including BUPERSINST 1131.3, SECNAVINST 1120.6B, Title 10 which continue to use the term 'appointment' to mean permanent appointment. Only under specific sections in Title 10 does the term 'temporary appointment' appear, none of which were referenced for the MECP program as the appointment never was a temporary appointment.

5. [REDACTED] signed an acceptance and oath as an Ensign which also states 'appointment' not temporary appointment. (Attachment 2). She signed an acceptance and oath as a LTJG which states 'permanent appointment' on 29 December 1999. (Attachment 3).

6. [REDACTED] states that referenced sections of Title 10 do not address reversion to enlisted status for retirement. The references do not address the issue because it is not relevant to the MECP program. The only individuals who have the option of reverting to an enlisted status for retirement are the LDOs where their initial appointment is temporary. All other officers receive permanent appointments and as such they cannot revert to enlisted status.

7. Changes in instructions and NAVADMINS are constant and are in concert with continuous process/ quality improvement and changes in the program itself.

8. [REDACTED] states she has recently contacted the MECP program manger and individuals handling retirements at BUPERS. These same resources were 'reasonably available' to her for questions prior to signing her commissioning documents.

9. [REDACTED] states different dates of service obligation. The initial enlisted service obligation of 6 years was implemented to ensure the individual does not leave the naval service during the program. It is addressed on page 5, paragraph 11(c) of BUPERSINST 1131.3. If the MECP candidate fails to complete their training or licensure requirements as a registered nurse, then the individual completes whatever remains of this 6 year obligation as delineated in paragraph 11(g). The enlisted service obligation terminates at the time of commissioning.

10. [REDACTED] retirement eligible in 2006 as documented on her Statement of Service dated 02/23/99 which is noted to be present on the microfiche she has submitted. (Attachment 4).

11. [REDACTED] obligated service is:

- Enlisted service obligation terminated 12/13/97.
- Active Duty Commissioned Base Date of 12/13/97 is the beginning of the 4 years active duty obligation which concludes on 12/13/01.
- The remaining 4 years (of the 8 year total service obligation) can be served either on active duty or inactive duty and will conclude on 12/13/05.

11. Recommend that this request be denied. The service obligation is clearly delineated in the instructions which [REDACTED] was provided. There is no evidence that [REDACTED] sought information from all reasonable, accurate and available resources, that is, the detailers or community manager or NSHS or any individual within the Nurse Corps who had knowledge of the program prior to signing her commissioning documents. [REDACTED] voluntarily signed her commissioning documents. [REDACTED] also voluntarily signed her 'permanent appointment' to LTJG in December 1999 after all the instructions which she states clarify the service obligations were in effect.

[REDACTED]