



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

JLP:ecb
Docket No: 5100-03
15 October 2003

[REDACTED]

Dear [REDACTED]

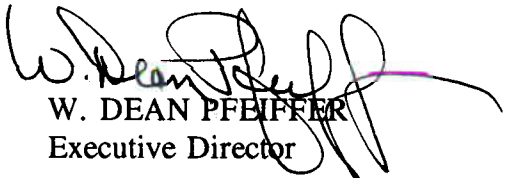
This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 October 2003. 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 BUMED letter 7220 Ser 132/03-3701 dated 14 August 2003, a copy of which is attached.

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



DEPARTMENT OF THE NAVY

BUREAU OF MEDICINE AND SURGERY
2300 E STREET NW
WASHINGTON DC 20372-5300

IN REPLY REFER TO

7220

Ser 132/03-3701

14 Aug 03

From: Chief, Bureau of Medicine and Surgery

To: Board for Correction of Naval Records

Subj: ADVISORY OPINIONS ICO [REDACTED]

Ref: (a) SECNAVINST 7220.75C

(b) SECNAVINST 6401.2A

Encl: (1) BCNR File ICO LT [REDACTED]

(2) Commonwealth of Virginia Medical License, Issue Date
15 August 2002 ICO [REDACTED]

(3) Naval Environmental Health Center ltr 7220 Ser
CS/012953 of 26 December 2001

1. Enclosure (1) is returned recommending disapproval.

2. As per reference (a), to be eligible for Additional Special Pay (ASP) the member must possess a valid state license or an approved waiver. Although the copy of the license in her application deleted the date of issuance of her license, enclosure (2), a copy of her Commonwealth of Virginia medical license indicates it was not issued until August 15, 2002. A check with that licensure agency revealed that this was the initial issuance. Thus she did not have a valid license in 2001 and was not eligible for the special pay and was paid erroneously.

3. A review of [REDACTED] record indicates she graduated from her medical training in 1998, completed her internship in 1999 and completed her residency in May 2001. Because she was in a training status from 1998-2001, under the provisions of reference (a) the first opportunity for her to apply for special pay would have been in 2001, if she has either a license or a waiver in accordance with reference (b). It is noted that in 2001, under the provisions of this instruction, waivers are allowable only for the first year after internship, if the member was not in a residency program and if the member was in an operational billet. The Department of Defense (Health Affairs) has since issued directives that these waivers of licensure may no longer be issued by the services but must be approved at their higher level. However [REDACTED] was

SEP 17 2003

Subj: ADVISORY OPINIONS ICO [REDACTED]

more than one year out of her internship and not in an operational billet therefore she was not entitled to a waiver nor was she entitled to this special pay.

4. It is unknown why her Commanding Officer approved her request in May 2001, however it is clear she was not entitled to this pay and when this error was discovered upon her transfer to the Naval Environmental Health Center, the appropriate action was taken for recoupment. The Defense Finance and Accounting Service, Cleveland, placed the debt on member's account per request from the Bureau of Medicine and Surgery, Special Pays Department, 4 January 2002. [REDACTED] was informed of the overpayment and recoupment as shown on enclosure (3).

5. Your point of contact is Ms. [REDACTED] who may be reached at 202-762-3397, DSN 762-3397, FAX 202-762-0919, DSN 762-0919, or E-Mail [REDACTED].med.navy.mil.

[REDACTED]
By direction