

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Stephen Melia,
Petitioner,

Docket No.: CR-24-0702

v.

Date: July 3, 2026

Wellesley Retirement Board,
Respondent.

Appearances:

For Petitioner: Judson Pierce, Esq.
For Respondent: Michael Sacco, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner injured himself at work while stepping down from a truck. There is no dispute that after this event, he was no longer able to perform his employment duties. The only question is whether the incident caused his disability. While he had pre-existing conditions, they had not limited his ability to perform his work duties before this accident. Accordingly, the accident was the cause of his disability.

INTRODUCTION

Pursuant to G.L. c. 32, § 16(4), the Petitioner timely appeals the Wellesley Retirement Board's ("Board") decision denying his application for accidental disability retirement. The parties filed a joint pre-hearing memorandum with a series of agreed facts. I held a virtual hearing on May 19, 2026. The Petitioner was the only witness. I entered exhibits 1-16 into

evidence. Both parties submitted post-hearing briefs on June 26, 2026, at which point I closed the administrative record.

FINDINGS OF FACT

1. The Petitioner was a long-time employee for the Town of Wellesley. He was a Truck Driver/Laborer. (Agreed facts.)
2. His job required strenuous manual labor. He had to walk, lift, carry, and climb. He drove a truck and had to get in and out all day. Prior to October 2022, he performed all the physical functions of his job without incident or limitation. (Testimony.)
3. The Board does not dispute he is now permanently disabled, meaning, he has been unable to perform the essential duties of his job since a workplace accident in October 2022. The only question is whether that incident caused his disability.

Workplace injuries

4. The Petitioner had injured himself at work before October 2022. (Agreed facts.)
5. He injured himself, and required medical treatment, in 2006 and again in 2013. In 2006, the injury was to his left leg; in 2013, it was to his right one. (Agreed facts.)
6. Both injuries required him to miss a few months of work, but he returned each time without limitations. (Agreed facts.)
7. The incident at issue in this appeal occurred in October 2022. He twisted his leg as he was stepping out of his truck. He reported the injury to his foreman and filed an injury report. He was unable to work again after that. (Agreed facts; ex. 5.)
8. He tried to work light or modified duty, but his employer could not accommodate his request. (Testimony.)

Post-injury treatment

9. He went to the hospital on the day of the accident. He was in pain and had difficulty walking. An x-ray revealed no fracture. The hospital gave him a boot for his leg and crutches to help him walk. (Testimony; agreed facts.)
10. A few days later his doctor diagnosed him with a muscle strain. When he was still in pain a week later, his doctor ordered an MRI. The MRI revealed no fracture but showed chronic muscle atrophy. It also showed a “possible chronic nerve injury.” (Agreed facts; Ex. 6.)
11. In December 2022, he underwent an electromyography (“EMG”). That showed the Petitioner had polyneuropathies that “are chronic in nature and most likely have been there for months if not years.” (Agreed facts; Ex. 6.)
12. Following his injury, through his injury-related treatment, the Petitioner also discovered he had diabetes. (Testimony.)
13. The Petitioner ultimately developed what is known as a “foot drop.” The consequences of this are that his right foot is weaker than his left foot. If he is not careful, he can trip while walking because he sometimes drags his toes. It limits his ability to move quickly—he cannot really run, for example. (Testimony; agreed facts; Ex. 16.)
14. These symptoms persist today. He still has the “foot drop.” He experiences numbness. He also has trouble walking, climbing, maintaining his balance, and carrying things.

Independent medical examinations

15. In the context of his workers’ compensation claim, the Petitioner underwent two independent medical evaluations. (Ex 6., pgs. 64-69 & 108-111.)

16. Both doctors agreed the Petitioner had a range of preexisting conditions and that the workplace accident exacerbated those conditions so that he was unable to work. (Ex 6., pgs. 64-69 & 108-111.)
17. However, by the time they evaluated him—one in April 2023 and one in November 2023—both doctors opined that the symptoms from the workplace accident had resolved and any lingering symptoms and/or disability were related solely to his preexisting conditions. (Ex 6., pgs. 64-69 & 108-111.)

Accidental disability retirement

18. After filing his accidental disability retirement application, the Board sent the Petitioner’s case to a medical panel consisting of two neurologists, Drs. Julian Fisher and Daniel Vardeh, and one orthopedist, Dr. Marc Linson. (Exs. 8-10.)
19. All three doctors agreed the Petitioner was permanently incapacitated. Drs. Vardeh and Fisher also agreed the 2022 incident caused his disability while Dr. Linson did not.
20. Dr. Linson said the October 2022 injury was a “minor transient strain of the right lower extremity.” He continued:

I do not find convincing evidence that a perineal neuropathy at the knee was caused by this injury leading to foot drop, but rather that the foot drop, numbness of his right leg, balance problem, and what he is exhibiting at this time as a fairly dramatic impairment, are due to a progressive, pre-existing, and non-work-related neuropathy. In my opinion, the October 18, 2022 work injury did not aggravate the pre-existing neuropathy.

(Ex. 7.)

21. Dr. Fisher, on the other hand, disagreed. He explained that the Petitioner’s “functional diagnosis is right leg strain aggravating an underlying chronic polyneuropathy of the

right leg, possibly secondary to diabetes mellitus. The lumbar spine disease was not aggravated.” He concluded:

In effect, the strain/sprain from the leg injury appears to have aggravated a preexisting illness. It is noteworthy that the examinee had a similar twisted-leg phenomenon 12 to 13 years previously and had gone back to work after 3 months of physical therapy.

(Ex. 8.)

22. Similarly, Dr. Vardeh noted that the October 2022 event caused several symptoms that were “likely related to his work injury of October 2022” and that were “compatible with right peroneal nerve injury.” He listed other symptoms which were “related to his lumbar radiculopathy, which was not caused by, or aggravated by the work-related injury.” Ultimately, his incapacity was caused by a mix of ailments:

Mr. Melia has several conditions impairing his ability to walk and balance, some of which are unrelated to his work injury, and one of which is, namely his right peroneal nerve injury. Based on the history provided as well as medical notes, in my opinion, the October 19, 2022 work-related injury caused him to decompensate and not be able to walk and balance confidently, making him permanently unable to return to work as a truck driver.

(Ex. 9.)

23. The Board sent requests for clarification to each doctor. They each clarified a few points but reaffirmed their respective initial opinions. (Exs. 10-11.)
24. Ultimately, the Board denied the Petitioner’s application because “the preponderance of the evidence does not support a finding, consistent with the Regional Medical Panel minority opinion, that Mr. Melia’s October 19, 2022 injury he sustained in the performance of his duties proximately caused his permanent incapacity.” (Ex. 12.)

DISCUSSION

The Petitioner has the burden of proving every element of his disability claim. *Lisbon v. Contributory Ret. App. Bd.*, 41 Mass. App. Ct. 246, 255 (1996); *Frakes v. State Bd. of Ret.*, CR-21-0261, 2022 WL 18398908, at *6 (Div. Admin. Law App. Dec. 23, 2022). “Accidental disability requires three elements: 1) that the applicant was ‘mentally or physically incapacitated for further duty,’ 2) that [their] ‘incapacity is likely to be permanent,’ and 3) that [their] disability ‘is such as might be the natural and proximate result of the accident or hazard undergone.’” *Carreiro v. New Bedford Ret. Bd.*, CR-21-0355, 2023 WL 4846320, at *5 (Div. Admin. Law App. Jul. 21, 2023).

A Petitioner whose claim rests on a workplace injury must show they sustained their injuries from either a specific event or series of events. *Lisbon, supra*, at 255. The work-related injury must be the “natural and proximate cause” of the disability. *Campbell v. Contributory Ret. App. Bd.*, 17 Mass. App. Ct. 1018, 1018-19 (1984). “Aggravation of a pre-existing condition to the point of disability satisfies the natural and proximate requirement.” *Williams v. Pittsfield Ret. Bd.*, CR-15-461, 2023 WL 11806182, at *2 (Contributory Ret. App. Bd. Apr. 21, 2023), citing *Baruffaldi v. Contributory Ret. App. Bd.*, 337 Mass. 495 (1958).

The Board only disputes that the October 2022 injury was the proximate cause of the Petitioner’s disability. It argues Dr. Linson’s opinion, bolstered by the two workers’ compensation evaluations, is more persuasive than the panel majority; the Petitioner obviously disagrees. Both parties highlight favorable passages from the various opinions to support their arguments while competently picking apart the contrary doctors’ opinions.

In a case like this, that is not hard to do. “[D]ifferent experts can look at the same set of facts and reach different plausible conclusions.” *Frakes*, at *9. I might have been able to

discredit some of the opinions if they had been based on an erroneous understanding of the facts or incomplete records, or if the opinions were simply implausible. But here, every doctor's opinion was based on an understanding of the factual record I agree with, none of them lacked access to any vital records, and all their opinions are supportable on this record.

Fortunately for the Petitioner, the record contains other corroborating evidence that, when combined with the opinions of the panel majority, is enough for the Petitioner to prove his claim by a preponderance of the evidence. The most important fact is that, even with the existence of the various pre-existing conditions, none of them limited the Petitioner, long-term, before the 2022 accident. He missed work for a few months after his prior injuries but always returned without issue. And even though he developed diabetes and neuropathy at some point prior to 2022, it had no impact on his ability to work or recover from workplace accidents. From 2013 until the 2022 incident, he performed all his job duties.

Rather, the Petitioner could no longer perform his job duties only after the October 2022 accident. Since he was able to perform his essential duties before the incident, but not after, the accident must have caused his disability. "When a '[preexisting] condition was manageable and not debilitating before [the accident] and then unmanageable and disabling after,' this obvious difference is better explained by an aggravation and not by 'a slow, degenerative worsening . . .'" *Lima v. Fall River Ret. Bd.*, CR-23-0499 (Div. Admin. Law App. Nov. 28, 2025), *quoting Smith v. Essex Reg'l Ret. Sys.*, CR-19-0533 (Div. Admin. Law App. Dec. 16, 2022); *Carreiro v. New Bedford Ret. Bd.*, CR-21-0355, 2023 WL 4846320, at *6 (Div. Admin. Law App. Jul. 21, 2023) ("When an employee is perfectly capable of doing their job, and then

totally unable to following a workplace injury, this goes a long way toward meeting their burden of proving causation.”).

Dr. Linson and the workers’ compensation evaluators opined that the 2022 injury was not so severe and that the Petitioner should have recovered from it. They, thus, assume the Petitioner did recover, and what is now holding him back is his pre-existing conditions. But there are no medical records or other evidence in the record that says the Petitioner recovered from the 2022 injury other than their say so. Rather, the Petitioner’s disabling symptoms have been consistent since the injury. It may be that, absent his pre-existing conditions, the Petitioner had a good chance of recovering from this type of injury. But despite his pre-existing conditions (or because of them), he did not. That perfectly encapsulates what it means to aggravate a pre-existing condition, which is sufficient to say the October 2022 incident caused the Petitioner’s disability.¹

CONCLUSION

The Board’s decision denying the Petitioner’s application for accidental disability retirement is *reversed*.

DIVISION OF ADMINISTRATIVE LAW APPEALS

¹ The Board relies on a few cases, focusing primarily on *Brady v. Weymouth Ret. Bd.*, CR-20-0201 (Div. Admin. Law App. July 15, 2022). But *Brady*, like so many accidental disability cases, is unique and fact intensive. There is so much that distinguishes it from this case factually, that it is hard to rely on it as controlling the outcome here. For example, Brady’s doctor had cleared him to return to work, and he indeed thought he could return to work; he only changed his mind when his Chief (he was a firefighter) filed an involuntary application on his behalf. *Id.* Nothing in this decision should be interpreted as saying there was anything wrong with the magistrate’s conclusions in *Brady*. On the contrary, the conclusions in that case flow from the specific facts presented there while the conclusions in this case flow from the Petitioner’s specific circumstances.

Eric Tennen

Eric Tennen
Administrative Magistrate