COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Patricia Mitchell,
Petitioner,

v.

Weymouth Retirement Board,
Respondent.

Docket No.: CR-23-0214

Date: July 31, 2026

Appearances:

For Petitioner: Morgan Gray, Esq.
For Respondent: Christopher Collins, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner was a paraprofessional working one-on-one with students with disabilities. She hurt her back while assisting a student who had a seizure. After this incident, she was disabled, meaning that she was unable to perform her job duties. However, it is unclear whether her disability stemmed from the classroom accident or subsequent incidents outside of work. Accordingly, she did not meet her burden of proving the workplace incident caused her disability.

DECISION

Pursuant G.L. c. 32, § 16(4), the Petitioner, Patricia Mitchell, timely appeals the Weymouth Retirement Board's (Board) decision to deny her application for accidental disability. I conducted a virtual hearing on April 9, 2026. Ms. Mitchell was the only witness. I entered Exhibits 1-29 into evidence. Both parties submitted post-hearing briefs on June 26, 2026, at which point I closed the administrative record.

FINDINGS OF FACT

1. In February 1999, Ms. Mitchell started work as a paraprofessional for the Weymouth public schools helping with special education students. Her job responsibilities included various physical components like lifting students, helping them with toileting and other personal needs, restraining them (when necessary), and assisting them to walk around the school and climb up and down stairs. (Testimony; ex. 6.)

The October 2016 incident

2. In 2016, Ms. Mitchell was working primarily with one student. He was severely disabled and confined to a wheelchair. Among other things, he had a seizure disorder. One of her duties involved helping him with morning exercise. For this student, that meant she had to lift him out of his chair and physically support him so he could participate. (Testimony.)
3. On October 21, 2016, Ms. Mitchell was helping this student to stand with a gait belt—which is a belt that helped her to prop him up. The student suffered a seizure and fell to the ground. (Testimony; exs. 3, 7-8.)
4. The student's sudden fall dragged Ms. Mitchell down to the ground. (Testimony; ex 3.)
5. She filled out an injury report and was able to finish her workday (on a Friday). (Testimony.)
6. Before this injury she had never had any back issues or required medical treatment for pain. She was fully able to perform all her job duties and activities of daily living. (Testimony.)

7. However, the next morning, she woke up with severe lower back pain. She could not even stand up straight. (Testimony.)

8. She thought it would eventually resolve and tried to rest during the weekend. When it did not get better, that Monday she went to an urgent care facility. She was prescribed medications as needed for pain. (Ex. 19.)

9. The pain persisted and about a week later she went to her primary care doctor. Her primary care doctor noted that she had "[n]o previous degenerative disk disease or significant back complaints." The doctor recommended that she take muscle relaxants and resume work in one week. (Ex. 18.)

10. On November 7, 2016, Ms. Mitchell again went to her primary care doctor. Her back was "slowly" getting better, but she still could not stand up straight. She reported that her back felt tight and that she had spasms when she bent down to pat her dog. The pain "radiate[d] across back down buttocks." The doctor told her that she could return to work but to restrict lifting to under 30 pounds for the following four to six weeks. (Ex. 18.)

11. She tried to return to work. But she struggled: she was on light duty, she could not lift anything heavy, and she could not walk long distances or sit for long periods of time. She returned to work for a week or two at which point she had to take leave again. (Testimony.)

Treatment and work from 2017-2018

12. When things did not improve, her primary care doctor referred her to Dr. Richard Mazzaferro, an osteopath at the Quincy Spine Center. (Ex. 20.)

13. An MRI on February 6, 2017 showed that she had "[d]egenerative disc disease L4/5 with left lateral disc extrusion impinging on the exited left L4 root" and "[d]egenerative disc disease and facet osteoarthropathy elsewhere in the lumbar spine producing mild impingement on the origins of the S1 roots at L5-S1." (Ex. 21.)

14. Dr. Mazzaferro treated her with spinal injections and prescribed physical therapy, which she did. (Testimony; ex. 20.)

15. She returned to work in March 2017, at least part time and with restrictions. (Testimony.)

16. This therapy provided some temporary relief but ultimately did not alleviate all her pain. Nevertheless, with her progress, in May 2017, Dr. Mazzaferro cleared Ms. Mitchell to return to work full-time. However, he restricted her lifting to no more than 20 pounds and her sitting, standing, or walking to no more than 20 minutes. (Testimony; ex. 17.)

17. On June 19, 2017, Dr. Mazzaferro cleared Ms. Mitchell to return to work full time at full duty without restrictions. (Ex. 20, pg. 19.)

18. Around the same time, as part of the workers' compensation process, Ms. Mitchell was evaluated by Dr. Eugenio Martinez. Dr. Martinez concluded that it was more likely than not that Ms. Mitchell "sustained a clinically significant disc herniation at L4-5 secondary to the fall on 10/21/2016, which did not result in significant radiculopathy, given the absence of left-sided sciatic pain throughout her course." He recommended a course of physical therapy for six weeks, after which he believed she would have reached "maximum medical improvement" and would be able to perform full time, unrestricted work duties. (Exhibit 22.)

19. Yet, by August 2017, her pain was not improving and Dr. Mazzaferro again restricted her to no heavy lifting and no prolonged sitting or standing. (Ex. 20, pg. 23.)

20. These clearances and restrictions all happened during the summer when Ms. Mitchell was not working. So, it is not clear if she could have worked without restrictions if she had to. In any event, she returned to work part-time in the fall, and with the restrictions Dr. Mazzaferro put in place. During this time, she was never pain-or symptom-free. (Testimony; ex. 20, pg. 27.)

21. Ms. Mitchell did not testify about her status between the beginning of the school year in September 2017 and early 2018. At least one medical record notes that she stated that although she had continuing back problems, she "did continue working until 2/20/18." (Ex. 26.)

22. Though the medical records are voluminous, there are few if any from this time period. There is one record from November 2017 in which she complained about knee pain from kneeling down after cleaning. But there is no mention of back pain in that record or any other record from this time. (Ex. 18, pg. 57.)

23. Since there is no evidence to suggest she was unable to work during this time, and there are no complaints from the school or her about her performance, I infer that from September 2017 until early 2018 she was working regularly. Even if restricted, she was performing the duties her job required.

24. Then, in January 2018, she hurt herself again when she bent over to pick up a towel from the floor. Her pain level increased to a 9 out of 10. She was ordered out of work again. (Ex. 20, pgs. 32-33.)

25. At the hearing, she was asked about how this incident impacted her:

> Q. . . . At some point, did your back return to baseline? In other words, did it return to what it was like after the incident that occurred on October 21st of 2016?
>
> A. No. I'm not understanding the question.
>
> Q. In other words, did you – did things settle down after picking up the towel eventually, with respect to your back?
>
> A. Eventually, yeah.
>
> Q. Yeah. Okay. But what – when they settled down, what restrictions were you still having, or what symptoms – pardon me – were you still having at that point?
>
> A. Just the constant ache, like I still have today. I mean, it's just in pain all the time. I'm afraid to bend down to pick up the towel.
>
> Q. So I guess my point is, did your symptoms go back to the way they were after the incident on October 21, 2016?
>
> A. I guess so, yeah. I mean, they didn't go back to before the accident.
>
> Q. No –
>
> A. I'm –
>
> Q. -- but I'm not asking you that. I'm asking did the picking up the towel, did that eventually calm down and – where your symptoms go back to the way they were after you had your accident on October 21, 2016?
>
> A. No, I still – I'm not understanding. I still have pain.
>
> Q. I know you still have pain, but was the pain the same as you had after the incident on October 21st of 2016, or was it worse?
>
> A. It's worse.

26. By February 5, 2018, she was cleared to return part-time at four hours a day with restrictions. It is not clear if she went back to work, but if she did, it was not for long because, according to her medical records, she remained out of work from at least February 26, 2018 until the start of the new school year. (Ex. 20, pgs. 38-57.)

27. She had another MRI in late February 2018 because her symptoms persisted. According to Dr. Mazzaferro, the MRI showed "multilevel deg changes" and a new L2/3 disc extrusion with "nerve root displacement" not seen on the previous MRI. He scheduled Ms. Mitchell for a steroid injection. (Ex. 20, pg. 43.)

28. In September 2018, Ms. Mitchell returned to work but again with limitations. That did not last long, and she stopped working a few weeks later due to back pain. (Testimony; ex. 23.)

29. Because she was unable to work, she was terminated in November 2018. (Ex. 5.)

Events after the October 2016 incident

30. In addition to hurting herself when she bent over to pick up a towel in January 2018, there were two more subsequent events relevant to this appeal.

31. On December 30, 2020, Ms. Mitchell had a fit of coughing that led to more back pain. She was prescribed pain medications. She eventually had another MRI in January 2021 and returned to physical therapy. (Testimony; exs. 21 & 23.)

32. In May 2021, Ms. Mitchell was in a car accident. Physical therapy records note that, after the accident, she reported increased stiffness and pain, and decreased ability to ambulate for at least a few weeks. (Ex. 21, pg. 122.)[1]

Ms. Mitchell's Application for Disability Retirement

33. In April 2020, Ms. Mitchell applied for accidental disability retirement. (Ex. 3.)

34. She was referred to a medical panel consisting of three orthopedists: Drs. Henry Drinker, John Golberg, and Samuel Doppelt. (Exs. 9-11.)

35. All three doctors agreed Ms. Mitchell was permanently disabled. (Exs. 9-11.)

36. All three recognized that, although Ms. Mitchell had no pain or back problems before the October 2016 accident, subsequent treatment revealed she had a preexisting condition of degenerative disc disease (and some noted she also had multilevel lumbar spondylosis). (Exs. 9-11.)

37. Dr. Drinker did not think the October 2016 incident caused her disability. He diagnosed her with "lumbar spondylosis with degenerative disc disease and radiculopathy of left lower extremity." (Ex. 9.)

38. He explained the 2018 MRI (following the "towel incident") showed a "new" extrusion,[2] suggesting "that there was an event preceding that MRI that led to an actual worsening

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[1] At the hearing, Ms. Mitchell testified that she was not injured in the accident. Before the accident she was still experiencing back pain and all the associated problems that started in October 2016. She was already doing another round of physical therapy. I thus interpret her testimony to mean she did not believe the accident caused any new injuries; she continued to have the same problems after the accident that she had before.

[2] He explained an extrusion means "a ruptured disc where a fragment has actually escaped the restraining disc annulus or ring and has extended into the foraminal area where the nerve roots exist." (Ex. 9.)

of her underlying condition or aggravation that was clearly not work related." The 2021 MRI also showed a new extrusion. (Ex. 9.)

39. He concluded that "there is no objective basis for concluding that the injury specifically on 10/21/2016 was anything other than a temporary exacerbation of the pre-existing condition and that the incapacity primarily results from the superimposition of acute events occurring out of the work context subsequently, as noted above, and superimposed upon her chronic degenerative lumbar condition." (Ex. 9.)

40. Dr. Golberg disagreed, concluding that Ms. Mitchell's disability resulted from the October 2016 incident. He diagnosed her with "[p]rogressive degenerative disc disease of the lumbar spine, likely aggravated by the 10/21/2016 workplace incident." (Ex. 10.)

41. He observed that "the records and history indicate she was asymptomatic prior to the 10/21/16 workplace incident and for that reason it is my opinion that there is a causal relationship to the progression of symptoms and the incident of record." (Ex. 10.)

42. He was aware of her "coughing incident" and her car accident. He did not mention the "towel incident," only noting that on January 16, 2018, "she was complaining of severe exacerbation of her pain." (Ex. 10.)

43. It is therefore not clear to me whether Dr. Golberg understood there was an out-of-work event in January 2018 that the other doctors seem to agree, at a minimum, exacerbated her pain. It is also unclear to me whether Dr. Golberg believed her pain and symptoms in January 2018 were simply a continuation of her condition after 2016 or something new.

44. Dr. Doppelt agreed that Ms. Mitchell's permanent disability likely resulted from the October 2016 incident. (Ex. 11.)

45. He diagnosed Ms. Mitchell with "1. Exacerbation of preexisting degenerative spondylosis of the lumbar spine multilevel. (2) Probable new lateral disc extrusion impinging on the left exiting L4 root, not work related." (Ex. 11.)

46. The events of October 2016 "aggravated her previously asymptomatic degenerative disc disease." He added that "it is difficult to know for sure if the disc protrusion or extrusion was new, but she did not have any symptoms before. It is my opinion that her back problems are primarily due to her pre-existing multilevel lumbar spondylosis[.]" (Ex. 11.)

47. He explained that the MRI following the towel incident showed a new disc herniation with extrusion and represented a further aggravation of symptoms and her lumbar spine pathology. It was a "significant factor in her inability to return to her part-time work" and was not related to the 2016 incident. (Ex 11.)

48. He concluded that the 2016 incident "did have a greater than 1% chance of causing an aggravation of her lumbar spondylosis. It is difficult to place an exact number on it because at this time she has had about 4 or 5 other events which have contributed to her ongoing spinal pathology." (Ex. 11.)

49. The Board requested clarification from each of the three doctors. None of the doctors changed their conclusions. (Exs. 14 – 17.)

50. The Board denied Ms. Mitchell's application stating, "in weighing all the medical and non-medical evidence [the Board] believes that causation has not been established by the evidence's preponderance." (Ex. 1.)

DISCUSSION

The Petitioner has the burden of proving every element of her 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).

While a positive medical panel is "some evidence on the question of causation . . . it is not determinative." *Warren v. Boston Ret. Bd.*, CR-13-199, 2022 WL 16921473, at *10 (Div. Admin. Law App. Sept. 30, 2022). Rather, the "ultimate finding on causation is left to the retirement board to determine, considering all the evidence, both medical and non-medical." *Id.*, *citing Wakefield Ret. Bd. v. Contributory Ret. App. Bd.*, 352 Mass. 499 (1967).

The Board makes a few arguments about why the Petitioner has not proven causation. One theory is that the Petitioner's pre-existing condition was always going to progress to the point of disabling her and the October 2016 incident did not make a difference. In other words, it argues she would have been disabled anyway by the time of her application, regardless of her fall. I do not agree with this theory. After the incident, the Petitioner discovered she had a pre-existing condition; she does not dispute that. But because she was asymptomatic and able to perform her job duties before the October 2016 incident, and then symptomatic and unable to perform her duties after, it is difficult to ignore the October 2016 incident as a contributing cause to her disability—at least immediately after it occurred.

But the issue is not whether something is merely a contributing cause; it must be a "significant" contributing cause. *Strong v. Worcester Reg. Ret. Sys.*, CR-15-597, 2023 WL 11806179, *4 (Contributory Ret. App. Bd. Apr. 13, 2023), *citing Ann Marie Robinson's Case*, 416 Mass. 454, 460 (1993). Here, the causation picture begins to blur when I consider the subsequent, out-of-work incidents, mainly the "towel incident." There is evidence that the Petitioner was already recovering from the accident at school before she hurt herself again in January 2018. For one, her doctor had recommended she could go back to work with restrictions, at one point even suggesting she could go back without restrictions. I doubt he would have made those recommendations if her pain was getting worse or even staying the same. Also, Dr. Martinez (the workers' compensation evaluator) believed that with some more physical therapy, she would be able to return to full, unrestricted work duties in a few months. Finally, I infer that she was working and performing her duties in the fall of 2017 until she hurt herself again in 2018 because there was no evidence in this record to say otherwise.

Then there is evidence that when she bent over to pick up the towel in January 2018, things got worse. Multiple doctors agreed that the subsequent MRI showed a new extrusion not present in the first MRI taken after the 2016 fall. They concluded, and I credit their conclusions, that could only be on account of a new event. That event must have been when she bent over and experienced new pain (a "9 out of 10" in her words). The Petitioner herself testified that her condition and pain level after the 2018 event was worse than before.

Dr. Golberg did believe the October 2016 incident could have been the cause of the Petitioner's disability. But his opinion did not even mention the "towel incident" so it is hard to know if he took that into consideration. That matters because he too noticed that the MRI a few months later showed a new extrusion. If he was unaware that she hurt herself bending down a month before, he may have thought the new extrusion was part of the progression of her existing injury. If he was aware of it, he does not explain how it factored in. Given the significance of this incident, it is hard to credit his opinion without him having mentioned or analyzed it.

That leaves Dr. Doppelt's opinion, which does not provide a solid foundation for a causation finding. While he agreed the 2016 incident could have been the cause of Ms. Mitchell's disability, he hedged by saying "It is difficult to place an exact number on it because at this time she has had about 4 or 5 other events which have contributed to her ongoing spinal pathology." That nicely summarizes how I view the evidence. There is no clear line, not even by a preponderance of the evidence, that the incidents after October 2016 did not play a significant role in her disability—especially the towel incident which, by her own account, made things worse. There are not enough strong medical opinions to draw a clear conclusion. Rather,

Dr. Doppelt wavers in his opinion on causation and Dr. Golberg's opinion is convincingly rebutted by other factors. The best that can be said is that here, the "experts offer equally plausible opinions," which means the Petitioner has not met her burden of proof. *Rogers v. Essex Reg. Ret. Bd.*, CR-23-0270, 2025 WL 561900, at *7 (Div. Admin. Law App. Feb. 14, 2025); *Commonwealth v. Carter*, 306 Mass. 141, 147 (1940) ("When the evidence tends equally to sustain either of two inconsistent propositions, neither of them can be said to have been established by legitimate proof.").

I end with a brief note on the Petitioner's credibility. At times, she understandably seemed confused or unable to answer questions about when things occurred or their impact. I say "understandably" because she was living with fluctuating pain; she was receiving almost constant treatment and experiencing new events, both of which regularly changed how she was feeling. I understand why it would be difficult for someone to explain with any precision how these events impacted an ongoing problem. Ms. Mitchell was not untruthful; quite the contrary, she was very truthful in admitting she could not answer or explain certain things. My conclusions are not based on any deficit in her testimony. Rather, they are based on the medical ambiguities in trying to calculate how much one event impacts another. It is not her fault she is no better able to calculate these probabilities than medical experts.

Conclusion and Order

Ms. Mitchell has not proven by a preponderance of the evidence that she is entitled to accidental disability retirement. The Board's decision denying her application is hereby *affirmed*.

SO ORDERED.
DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

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Eric Tennen
Administrative Magistrate