

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Matthew Pacheco,
Petitioner

v.

Docket No. CR-25-0326
Date: August 14, 2026

**Fall River Retirement Board and
Public Employee Retirement
Administration Commission,**
Respondents

Appearance for Petitioner:

Alan Shapiro, Esq.

Appearance for Fall River Retirement Board:

Michael Sacco, Esq.

Appearance for PERAC:

Felicia M. Baruffi, Esq.

Administrative Magistrate:

Kenneth J. Forton

SUMMARY

A police officer permanently disabled by endocarditis applied for accidental disability retirement under the Heart Law, G.L. c. 32, § 94. The officer submitted only two pages of his pre-employment physical examination report: the cover page and the physician's certification page, which reflects that he passed by meeting the medical standards for entry to service. PERAC correctly declined to convene a medical panel under the Heart Law presumption because the officer did not present sufficient

evidence that his pre-employment physical or any subsequent medical visit failed to reveal any evidence of heart disease.

DECISION

Petitioner Matthew Pacheco appeals timely under G.L. c. 32, § 16(4), the May 1, 2025, decision of Respondent PERAC, refusing to appoint a medical panel to opine on his accidental disability retirement application under the Heart Law, G.L. c. 32, § 94. PERAC explained that Mr. Pacheco did not submit sufficient evidence to prove that he passed a physical examination, either on entry into service or subsequently, which failed to reveal any evidence of the heart condition that later disabled him.

DALA ordered the parties to submit a joint pre-hearing memorandum, which they did on November 18, 2025, along with 9 proposed exhibits. The parties appeared for a hearing on April 29, 2026, where I entered the 9 proposed exhibits into evidence as marked. (Exs. 1-9.) Mr. Pacheco appeared at the hearing but chose not to testify. He had already submitted an affidavit. (Ex. 3.) Neither Respondent cross-examined Mr. Pacheco. The Respondents called no witnesses. I heard the parties' arguments and ordered them to submit closing briefs, which they did. Mr. Pacheco also submitted an amended affidavit without objection from either Respondent; I have entered it into evidence as Exhibit 10. (Ex. 10.)

FINDINGS OF FACT

Based on the documents presented by the parties, I make the following findings of fact:

1. Matthew Pacheco served as a Fall River police officer from January 2002 until his retirement, effective June 13, 2025. (Stipulation.)

2. Before he was hired, Mr. Pacheco underwent a pre-employment physical examination. The examination took place on November 23, 2001, and the results were recorded on the Commonwealth Human Resources Division's Medical Examination Form. For reasons described below, only the form's cover page, page 1, and its final page, page 6, which included the Medical Verification Section, are in evidence.

(Stipulation; Exs. 9, 10.)

3. The Medical Verification Section directs the examining physician to conduct the examination "in relation to the applicable public safety position Medical Standards." Those standards include Category A conditions, which "preclude an examinee from work in the public safety position" and Category B conditions, which "require careful individual consideration and may require further evaluation to determine whether the condition would preclude this individual from safely performing the essential functions of the public safety position." It requires the physician to certify that the examinee passed or failed and to note "the specific section(s) of the Medical Standards that were not met," with designated spaces for the physician to note any Category A and Category B conditions. (Ex. 9.)

4. Dr. Henry Vaillancourt performed the examination and certified that Mr. Pacheco passed it. He noted no section of the Medical Standards as unmet. The designated spaces for Category A and B conditions are blank. (Ex. 9.)

5. Mr. Pacheco served on full duty without restriction until January 2022, when he was hospitalized with COVID-19. On January 18, 2022, cardiac problems were discovered. Surgeries in February and March 2022 addressed an infected aortic valve.

They repaired the anterior heart wall and heart valve. He was diagnosed with endocarditis. Although he recovered from the surgeries, Mr. Pacheco was left with permanent heart damage that left him unable to perform police duties since January 18, 2022. (Stipulation; Exs. 1, 2, 6.)

6. On December 22, 2022, Mr. Pacheco applied for accidental disability retirement under the Heart Law presumption, G.L. c. 32, § 94. His treating physician, Dr. Maryanne Norris, certified his permanent disability and answered the presumption-specific causation questions in his favor. (Exs. 1, 2.)

7. The police department was asked to submit all of Mr. Pacheco's medical records. It complied, but the copy of his pre-employment physical examination was missing pages 2 through 5, which were the pages for recording the findings of the physical examination. Pages 2 through 5 could not be located despite the diligent efforts of Mr. Pacheco and inquiries to the examining doctor's office, Mr. Pacheco's then-primary care provider, and Mr. Pacheco's employer before the police department. The pre-employment examination records were the property of the municipal authority, in this case the Fall River Police Department, which was obligated to keep them accessible for use in a disability proceeding. (Stipulation; Exs. 3, 9, 10.)

8. The Fall River Retirement Board petitioned PERAC to convene a regional medical panel to review Mr. Pacheco's application for accidental disability retirement pursuant to the Heart Law. PERAC declined and instead convened a panel to evaluate Mr. Pacheco for *ordinary* disability retirement only. All three panelists certified Mr.

Pacheco's permanent incapacity. None of the panelists was asked to address causation under the Heart Law. (Stipulation; Exs. 6A-6C.)

9. On April 30, 2025, the Board voted 3–2 to deny the application as to accidental disability. It gave the following reasons:

[N]either Mr. Pacheco nor the City of Fall River was able to produce a pre-employment physical that demonstrated that he did not suffer from heart disease or hypertension when he was hired, and unfortunately Mr. Pacheco was unable to produce any medical documentation subsequent to his hire that demonstrated that he did not suffer from heart disease or hypertension prior to his diagnosis. As a result, PERAC refused to convene a medical panel for an accidental disability pursuant to M.G.L. c. 32, § 94, the so-called "Heart Law."

Mr. Pacheco timely appealed. (Stipulation.)

10. The Board did, however, grant ordinary disability retirement, effective June 13, 2025. (Exs. 7, 8.)

CONCLUSION AND ORDER

An applicant for accidental disability retirement must prove three essential elements: that he is "unable to perform the essential duties of his job," that the disability "is likely to be permanent," and that the disability was caused by an injury or hazard that the applicant sustained "as a result of, and while in the performance of, his duties at some definite place and at some definite time." G.L. c. 32, § 7(1). Mr. Pacheco has already proven the first two elements and is appropriately retired for ordinary disability. See G.L. c. 32, § 6.

With respect to the third element, causation, a special rule applies to certain public-safety employees, like Mr. Pacheco, with cardiovascular conditions. The rule is commonly referred to as the Heart Law. G.L. c. 32, § 94. It presumes that a disabling

condition “caused by hypertension or heart disease” was suffered in the line of duty if the member “successfully passed a physical examination *on entry into such service, or subsequently* . . . which examination failed to reveal any evidence of such condition . . . unless the contrary be shown by competent evidence.” *Id.* (emphasis added); 840 CMR 10.04(3)(a).

In effect, the presumption shifts the burden of proof from requiring the applicant to prove by a preponderance of the evidence that a job-related condition caused the disability to requiring the Board to grant the application unless it is convinced by a preponderance of the evidence that a non job related condition or event caused the disability.

Williams v. Norfolk Cnty. Ret. Bd., CR-03-556, at *3 (Contributory Ret. App. Bd. Dec. 23, 2004).

Mr. Pacheco concedes that he will not be able to prove the causation element of his claim without the benefit of the Heart Law presumption. That means that, if he loses this appeal, he will continue to collect his ordinary disability retirement allowance and will not attempt to prove causation without the presumption in his favor.

The focus of this appeal has largely been on Mr. Pacheco’s failure to produce his pre-employment physical examination as evidence that he was not already suffering from a heart ailment before he began serving as a police officer. However, as PERAC correctly points out, the pre-employment physical—certainly the most common way of meeting that evidentiary burden—is nevertheless not the only way. The Heart Law explicitly states that Mr. Pacheco could also have submitted a physical examination performed, *subsequent to* starting his police job in Fall River, that revealed no evidence of his heart ailment. § 94. PERAC has indicated that it would accept as proof a record of

any doctor's visit, not just a physical, so long as it showed a list of medications and diagnoses, and a blood pressure reading, that took place any time from the date of his entry into service through 2022, when he started his treatment. Mr. Pacheco has declared in his affidavit, without any evidence to the contrary, that he was informed by his primary care provider that it had no records contemporaneous with his date of hire. Even if this is true, Mr. Pacheco could still have submitted evidence of a later doctor's visit that met PERAC's requirements. It strains belief that over the twenty years of his employment Mr. Pacheco did not visit a doctor who recorded the minimal data that PERAC required. Without Mr. Pacheco's live testimony and the ability to cross-examine him it is impossible now to explore that issue further.

Rather than produce this other acceptable evidence, Mr. Pacheco argues that the first and last pages of the medical examination form, Ex. 9, alone are sufficient for him to make his case. For the following reasons, I disagree.

The DALA decision closest to Mr. Pacheco's situation is *Platt v. State Board of Retirement*, CR-22-0481, CR-25-0208 (Div. Admin. L. App. Feb. 20, 2026). Ms. Platt was a correction officer who applied for accidental disability retirement under the Heart Law. The only written record of her preliminary physical exam was a checkbox sheet that said she was "found able to perform the job without accommodations." *Id.* at *2. The State Board of Retirement denied Ms. Platt a medical panel because she similarly had not submitted a pre-employment physical which failed to reveal evidence of heart disease or hypertension.

The DALA magistrate in *Platt* explained that the Heart Law makes two separate demands regarding the physical examination: the member must have passed the examination *and* the examination also must have failed to reveal any evidence of a heart condition. A bare passing result on the physical examination cannot establish the latter. *Id.* at *4. “[T]hat could mean *either* that the exam identified no evidence of heart disease *or* that the signs of heart disease found there were not disqualifying.” *Id.* at *7 (emphasis in original). The DALA magistrate therefore concluded that, even though Ms. Platt passed her physical, she had not proven that the examination failed to reveal evidence of a heart condition.

In addition, the case law has read the phrase “any evidence” literally. In a leading case, the pre-employment exam physician described the member as “definitely not an employment risk,” but documented one high blood pressure reading. A panel of the Appeals Court concluded that the member was not entitled to the Heart Law’s presumption, because:

The word “any” is clear and unequivocal. It is undisputed that there *was* evidence of hypertension on plaintiff’s pre-employment examination. . . . The question . . . is . . . whether the preemployment physical . . . revealed *any* evidence of hypertension.

Sullivan v. Contributory Ret. Appeal Bd., 61 Mass. App. Ct. 1106 (2004) (unpublished memorandum opinion).

Mr. Pacheco has established that he successfully passed his pre-employment physical examination. But, as in *Platt*, that could mean *either* that the examination identified no evidence of heart disease *or* that the signs of heart disease found there were not disqualifying. Mr. Pacheco asserts that the physical must have revealed no evidence of

heart disease; otherwise, he concludes, his employer or the examining physician would have informed him of any heart-related findings. This assertion is far from a foregone conclusion. It is just as easy to conclude that, if the examination revealed some evidence of non-disqualifying heart disease, there would have been no need for anyone to inform Mr. Pacheco.

Considering everything, Mr. Pacheco's evidence is not enough for me to infer that his pre-employment examination failed to reveal "any evidence" of heart disease. I therefore conclude that PERAC correctly decided not to convene a regional medical panel to examine Mr. Pacheco using the Heart Law presumption. The Board's denial of the application for accidental disability retirement is therefore AFFIRMED.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

DATED: August 14, 2026