COMMONWEALTH OF MASSACHUSETTS
Division of Administrative Law Appeals

Alan D. Predella,
Petitioner

v. Docket No. CR-21-0276

Braintree Retirement Board,
Respondent

Appearance for Petitioner:

Richard Heavey, Esq.

Appearance for Respondent:

Michael Sacco, Esq.

Administrative Magistrate:

Timothy M. Pomarole, Esq.

SUMMARY OF DECISION

The Petitioner, a retired firefighter, applied for accidental disability retirement on the basis of hypertension, anxiety, and post-traumatic stress disorder. The Braintree Retirement Board did not act on his application as to his claims of disabling anxiety and post-traumatic stress disorder. It denied his application as to hypertension. The Petitioner has established that he experiences disabling elevations in blood pressure as a result of his anxiety over his work environment. Although a majority of the regional medical panel, comprised of cardiologists, opined that the Petitioner has permanent hypertension, their opinions do not suffice to establish this hypertension will permanently result in incapacitating symptoms. Whether the Petitioner has exhausted reasonable medical options for managing the psychological responses that drive his disabling elevations in blood pressure is a question that requires psychiatric expertise. Accordingly, this matter is remanded to the Board with instructions that the Petitioner be examined by a panel that includes at least one psychologist and one cardiologist.

DECISION

Mr. Predella appeals a determination by the Braintree Retirement Board denying his application to retire for accidental disability. I held an in-person hearing at the Division of Administrative Law Appeals ("DALA") on June 20, 2023. That hearing was recorded. Mr. Predella was the only witness. The parties submitted post-hearing briefs and a transcript of the proceedings, whereupon the record was closed.

I admitted into evidence the parties' agreed-upon exhibits, numbered 1-9. At the hearing, I admitted the Board's proposed Exhibit 10 *de bene*. I admit it now without condition as Exhibit 10. I also admit the parties' agreed-upon statement of facts, which are set forth in the paragraphs numbered 1-14 in their Joint Prehearing Memorandum and will be cited by paragraph number as ("SAF __").

FINDINGS OF FACT

Based on the evidence presented by the parties, along with reasonable inferences drawn therefrom, I make the following findings of fact:

1. Mr. Predella began working for the Braintree Fire Department ("BFD") in 1983. (Exhibit 5).
2. When Mr. Predella began working for BFD he did not have hypertension, anxiety, or post-traumatic stress disorder ("PTSD"). He successfully passed a physical examination that did not reveal evidence of hypertension. (Testimony; SAF 4).
3. Around 2000, Mr. Predella began taking a blood pressure medicine. (Testimony).
4. In 2013, he became one of approximately eight Deputy Chiefs and occupied that position until his retirement in March 2019. (Testimony; SAF 1).

5. In 2013, a new Chief took over at BFD as well. (Testimony).

6. Mr. Predella took issue with various policy changes instituted by the new Chief that he believed were harmful to public safety and the safety of his colleagues. The policy changes described by Mr. Predella included:

   - Allowing on-duty firefighters to leave the station and attend to personal matters if they brought their radio with them and were able to report to the scene of a fire if called;[1]
   - Removing the training officer from his position, resulting in less training;
   - Admonishing firefighters to keep problems and disputes "in house" rather than report them outside of the department (to the city's human resources department, for example);
   - Eliminating routine equipment checks;
   - Eliminating daily radio tests; and
   - Eliminating training at a hazardous materials facility.

   (Testimony).

7. Mr. Predella was also concerned that if someone was injured on his watch as a result of these changes, he would be blamed. (Testimony; Exhibit 8).

8. Mr. Predella went to the Chief to express his safety concerns on at least two occasions. (Testimony).

9. The Chief responded to these concerns dismissively. According to Mr. Predella,

[1] Mr. Predella articulated the security concerns associated with this policy change as follows: Firefighters away from the station might not be able to respond to the scene of a fire on a timely basis, and responding in their personal vehicles could pose additional safety risks. Moreover, there might not be sufficient firefighters at the station to safely operate certain vehicles that require two or more people. (Testimony; Exhibit 10).

when he voiced concern that someone could get hurt on his watch, the Chief replied: "We'll cross that bridge when we get to it, and I'll back you up." Similarly, in response to an incident in which firefighters were unable to deploy the ladder on the ladder truck because they did not know how, Mr. Predella reports that the Chief commented, "Shit happens." (Testimony).

10. After the meeting at which the Chief announced the policy permitting on-duty firefighters to leave the station with their radios, Mr. Predella convened a meeting with officers in his group and indicated that he would not allow the policy change. A lieutenant told Mr. Predella that the Chief was the one who set policy and threatened to take Mr. Predella "out back and hit [him]." One or two other firefighters broke up the dispute, and no physical altercation occurred. (Testimony; Exhibit 10).[2]
11. When Mr. Predella later discussed his confrontation with the lieutenant with the Chief, the Chief essentially sided with the lieutenant. (Testimony).
12. On more than one occasion, Mr. Predella asked the Chief to transfer him to a different group within the BFD so that Mr. Predella would not have to work with the lieutenant who had threatened him. Although such transfer requests were traditionally honored, the Chief denied Mr. Predella's requests. (Exhibit 8; Exhibit 10).

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[2] It appears that some of the dispute between Mr. Predella and the lieutenant concerned not only the Chief's authority, but also differences in authority between officers assigned to station operations (like the lieutenant) and those, like Mr. Predella, on "the fire suppression side." (Exhibit 10).

13. Mr. Predella believed that the Chief "tried to make my life miserable, trying to drive me out." (Testimony).[3]

14. On one occasion, the Chief asked Mr. Predella to go to Attleboro to pick up a truck, which was an unusual request to make of someone of Mr. Predella's rank. (Testimony).

15. On March 18, 2015, Mr. Predella treated with Dr. Steven Golden, his primary care physician, complaining of high blood pressure and work-related stress, including the fact that the "recently appointed chief has been very contrary and extremely difficult to work with." Dr. Golden wrote:

    > We spent 30 minutes in face-to-face discussion concerning his issues of work related stress in addition to his BP evaluation. He requested a change in "group" assignment which he feels will reduce the stress and this was denied. In addition he feels that he cannot compromise his work values to just "fall in line" with what he feels is not proper decorum at work.

    (Exhibit 8).

16. At this visit, Dr. Golden and Mr. Predella discussed stress management, a change to Mr. Predella's existing medication for treating anxiety, and tracking his blood pressure. No change was made to Mr. Predella's blood pressure medication. (Exhibit 8).

17. On November 18, 2015, Mr. Predella reported to the scene of a fire. At the scene, he began to feel pressure in his chest, pain in the left side of his neck, and dizziness.

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[3] The record indicates that Mr. Predella believed that the Chief wanted him to resign in part because Mr. Predella voiced safety concerns, but also as part of a broader effort to push out firefighters who had "maxed out" their retirement benefits so as to make room for younger firefighters to get promoted up the ranks. (Testimony; Exhibit 10).

(Testimony). He was treated at the emergency department of South Shore Hospital, complaining of chest pressure. A cardiac workup revealed no evidence of coronary artery disease, cardiac involvement, or pulmonary process. (Exhibit 8).

18. Mr. Predella was placed on paid injured leave from November 18, 2015 through November 29, 2015. (SAF 7).
19. On November 23, 2015, Mr. Predella followed up with Dr. Golden. Dr. Golden noted that Mr. Predella "does not feel he can return to work at this point given elevated blood pressure and ongoing work stressors that could exacerbate symptoms." Dr. Golden added a second blood pressure medication and doubled his existing dosage for a medication he had previously prescribed to treat Mr. Predella's anxiety. (Exhibit 8).
20. On November 30, 2015, Mr. Predella treated with Dr. Golden. Dr. Golden issued a letter stating that Mr. Predella could return to work without any restrictions. (Exhibit 8). Mr. Predella returned to work that day. (SAF 8).
21. At a January 11, 2016 office visit, Dr. Golden noted Mr. Predella's "significant stress at work" and "toxic work environment." Mr. Predella "has significant concerns that he has expressed to the Chief on a number of occasions and none of this has ever been addressed. He feels he cannot discuss these issues openly or he will be a 'black sheep.' He is quite afraid that someone will get hurt and that ultimately this will be a problem and 'come back on him.'" (Exhibit 8).
22. Dr. Golden further commented: "Over the past several years at every visit we have discussed the stressful situation where his concerns over the safety of his

subordinates have been rejected by the Chief. He has tremendous concerns about the citizens of Braintree due to what he feels is substandard preparation of the firefighters putting citizens and firefighters at risk." Dr. Golden encouraged Mr. Predella to "try to resolve the work issues and perhaps seek some counseling with regard to the issues at work." (Exhibit 8).

23. Dr. Golden increased the dosage on one of Mr. Predella's two blood pressure medications at this visit. (Exhibit 8).
24. On July 14, 2016, Mr. Predella saw Dr. Golden, who remarked that he "continues to have tremendous stress at work in the Braintree Fire Department. He is the Deputy Chief and struggles every day with poor treatment from the Chief with regard to daily operations. He has filed a discrimination/harassment suit and the stress has contributed directly to his feeling poorly and his high blood pressure." Dr. Golden further reported that Mr. Predella said that "he has been doing well with his blood pressure control since the last visit." Dr. Golden and Mr. Predella had a "lengthy discussion about stressful conditions in the workplace." (Exhibit 8).
25. The "discrimination/harassment suit" referenced in the preceding paragraph refers to an age-discrimination charge that Mr. Predella filed with the Massachusetts Commission Against Discrimination ("MCAD"), which resulted in a right-to-sue letter, a precondition for age discrimination claims he asserted in a subsequent lawsuit he filed in federal court. (Exhibit 10).
26. On January 17, 2017, Dr. Golden reported that Mr. Predella's blood pressure was "well controlled." (Exhibit 8).

27. On June 21, 2017, Mr. Predella filed a lawsuit in the United States District Court for the District of Massachusetts against the Town of Braintree, the mayor, the chief of the fire department, a BFD fire captain, the local firefighters' union, and the union's president. The Complaint alleges, among other things: (1) pay and benefit changes that penalize older workers; (2) a hostile work environment involving comments and actions pressuring older employees to retire; (3) retaliatory actions due to Mr. Predella's complaints about policies that he thought risked public health and safety;[4] and (4) retaliation arising from age discrimination complaints he made to the town's HR department and to the MCAD. (Exhibit 10).[5]
28. A few weeks later, on July 11, 2017, while driving to one of the fire stations to pick up some correspondence, Mr. Predella experienced dizziness, chest pains, and headaches. (Testimony).
29. That day, Mr. Predella was seen by the emergency department at South Shore Hospital, complaining of chest pressure. His cardiac enzymes test was negative for myocardial infarction. His nuclear stress test was negative. Mr. Predella was kept overnight for observation and discharged the following day. (Exhibit 8).
30. After the July 11, 2017 episode, Mr. Predella started seeing a psychotherapist for about one year. (Testimony).

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[4] Two of the retaliatory acts were specifically directed to Mr. Predella: refusing to transfer Mr. Predella after the lieutenant had threatened him and assigning him to pick up a truck. (Exhibit 10). The other two assertedly retaliatory actions related to policy changes that affected the deputy chiefs, generally. (*Id.*).

[5] On March 16, 2019, the lawsuit settled. (Exhibit 10).

31. Mr. Predella was placed on sick leave from July 12, 2017 until his retirement in March 2019. (SAF 8).

32. On July 25, 2017, Mr. Predella followed up with Dr. Golden, who noted that "[b]ecause of physical symptoms which developed on the job and stem from job related stress and anxiety he had to leave work by ambulance[.]" Dr. Golden added that Mr. Predella "has had a long history of work related stress and anxiety related to conflictual relationship with the chief" and "has had considerable safety concerns relating to job performance safety and communication issues." Dr. Golden reported that "[w]ork has become a toxic environment for him." He concluded that "it is not medically in his best interest to return to work at this time." Dr. Golden advised Mr. Predella to continue on his anti-anxiety medication. He intended to assess his blood pressure one month later to determine if there was any need to revise his blood pressure medication. (Exhibit 8).

33. On August 10, 2017, Mr. Predella followed up with Dr. Golden for his "work related anxiety and stress." Dr. Golden also noted that Mr. Predella had reported that he had been dismissed by his union. Dr. Golden stated that Mr. Predella's hypertension was well-controlled. (Exhibit 8).

34. On August 31, 2017, Mr. Predella treated with Dr. Golden, who reported that Mr. Predella "discussed the overwhelming[] anxiety that he has experienced related to the job stress and confrontational situation he has been in. Most recently driving home with his attorney from meeting related to his work-related lawsuit he broke into a sweat and was SOB [shortness of breath] with heart racing." Dr. Golden

remarked that Mr. Predella's blood pressure control was unsatisfactory. (Exhibit 8).

35. At a February 26, 2019 office visit, Dr. Golden noted that Mr. Predella's blood pressure was well-controlled, but noted that anxiety "continues to be a significant issue for him, primarily stemming from job stress and 'forced retirement.'" Dr. Golden also noted his "tremendous difficulty reconciling his career in the fire department and how it has ended with bitter feelings simply because he wanted to try to have it be a safe environment and look out for his firefighters." (Exhibit 8).
36. On March 22, 2019, Mr. Predella retired for superannuation. (SAF 15).
37. Mr. Predella did not want to leave his job. He loved being a firefighter and had waited his entire career to become a Deputy Chief. Mr. Predella stopped working because he "wasn't feeling good" psychologically or physically, adding that he had to leave because of "what was on my shoulders." (Testimony).
38. On June 10, 2020, Mr. Predella filed an application for accidental disability retirement, claiming hypertension, post-traumatic stress disorder ("PTSD"), stress, and anxiety. In response to the application question asking for the reason for his disability, Mr. Predella checked the box for "Personal Injury." (Exhibit 3).
39. Mr. Predella's responses to the follow-up questions regarding his claim of personal injury are as follows:

- In the section requesting the dates for the personal injury, Mr. Predella wrote:

    > Constant stress and concern for the safety of my firefighters and myself.

- In response to the question asking for specific times, he wrote:

    > On November 18, 2015 I was on the fire scene for several hours. Lilsle Street, Braintree. I was on the scene for four (4) to five (5) hours. In July

> 2017 I suffered chest pains for one (1) hour. I went to the fire station for all other duties.

- In response to the question asking for locations, Mr. Predella wrote:

> 7/11/17 I went to the South Shore Hospital Emergency Room for chest pain. I was taken by ambulance from the fire station. On 7/12/17 I went to the South Shore Hospital Emergency Room by ambulance from the fire station on Hayward Street. Braintree, MA.

- In response to the question requesting a description of the incident or hazard, Mr. Predella wrote:

> Last incident occurred on July 11, 2017 when I was taken by ambulance to the South Shore Hospital from my work. I suffered from chest pains and a headache. I was diagnosed with PTSD and Hypertension.

(Exhibit 3).[6]

40. Mr. Predella stated that the last date on which he was able to perform the essential duties of his position was March 22, 2019. (Exhibit 3).

41. In response to a question asking him to describe "any other circumstances, events or physical conditions that contributed or may have contributed to [his] disability," Mr. Predella wrote: "Fire circumstances, safety issues. I have experienced chest pains, headaches and dizziness at various times when on the scene at fires. I have extreme concerns for [the] safety of my firefighters." (Exhibit 3).

42. In support of this application, Mr. Predella submitted a Treating Physician's Statement from Dr. Golden. He diagnosed Mr. Predella with PTSD, hypertension, and generalized anxiety disorder. Dr. Golden opines that Mr. Predella is physically incapable of performing his work duties and that such disability is permanent. Dr.

[6] The records from Mr. Predella's July 11, 2017 hospitalization do not appear to include a diagnosis of PTSD.

Golden completed the section of the Treating Physician's Statement form relating to "Causation with Presumptions." (Exhibit 4).

43. In late February and early April 2020, Mr. Predella was examined by three separate Regional Medical Panel physicians to address whether Mr. Predella suffered from permanently disabling hypertension pursuant to G.L. c. 32, §§ 7 and 94. (The Board requested a panel to opine on hypertension only.).[7] Two of the panelists, Steven G. McCloy, M.D., and Howard Honig, M.D., answered the Regional Medical Panel's incapacity, permanence, and causation questions in the affirmative. The third panelist, Dr. Edward Hoffer, M.D., answered the incapacity question in the negative and did not reach the other two questions. (Exhibit 6).[8]

44. In his report, Dr. McCloy opines that Mr. Predella is disabled from performing the essential duties of his job because he "gets nervous going to work. He gets nervous at work. His blood pressure goes up and he gets chest pain. This renders him incapable of focusing and performing his job." Doctor McCoy adds that this is a "manifestation in the cardiac system of the underlying anxiety disorder and panic attacks. From the history provided today by Mr. Predella, the anxiety [a]rises directly from interaction with an adversarial and hostile work environment." (Exhibit 6).

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[7] The record does not reflect why Mr. Predella was not referred to a Regional Medical Panel to opine on his claim to be disabled on the basis of PTSD and anxiety.

[8] In addition to the questions contained in the Regional Medical Panel Certificate, it appears that the Public Employee Retirement Administration Commission (with some additions or amendments requested from the Board) posed additional questions to the panel about Mr. Predella's conditions. (Exhibit 6).

45. Dr. McCloy comments that "[h]is hypertension certainly is permanent," but also states that Mr. Predella's blood pressure could probably be better controlled with an increase in medication. Dr. McCloy adds:

> If his blood pressure were adequately controlled with medication and if his reaction to the provocation of his workplace as he alleged were better controlled with counseling or sedatives, I would not entirely dismiss the diagnosis of hypertension. I would still have to hold on to the diagnosis of labile hypertension whether the blood pressure was normal or not if there was a repeated pattern of elevation of blood pressure under stressful conditions. (Exhibit 6).

46. Dr. Honig opines that "Mr. Predella suffers from hypertension, which can be severe when exacerbated by emotional stress or the stress of his employment and, therefore, is permanently disabled and was so at the time he stopped working on 7/11/17." Dr. Honig adds that, notwithstanding some normal blood pressure readings, his diagnosis of hypertension remains because he is taking hypertensive medications. Dr. Honig also notes that although anxiety and panic attacks exacerbate Mr. Predella's condition, this is not the only cause of his hypertension because his "blood pressure has been high under other conditions."[9] Dr. Honig states that Mr. Predella's blood pressure seems adequately controlled. (Exhibit 6).[10]

47. Dr. Hoffer opines: "With no evidence of secondary end organ damage, I do not consider hypertension per se to be a disabling condition. I think it is more likely than

[9] Dr. Honig does not state what those other conditions were or what Mr. Predella's blood pressure readings were on those occasions.

[10] It is not clear whether Dr. Honig's conclusion that Mr. Predella's blood pressure is adequately controlled presupposes or takes into account the fact that he is no longer working for the Braintree Fire Department.

not that his major disabling condition is his PTSD related to his work environment. Therefore, from a purely cardiology [*sic*] standpoint it is my opinion that he is not disabled from his occupation." Dr. Hoffer adds that he thinks there is a "high likelihood" that Mr. Predella's blood pressure could be better controlled. (Exhibit 6).

48. On June 24, 2021, the Board voted to deny Mr. Predella's accidental disability retirement application to the extent he based his application on hypertension. The Board concluded that "(1) the Regional Medical Panel majority's opinion did not sufficiently support Mr. Predella's claim and (2) Mr. Predella did not establish that he was permanently incapacitated due to hypertension on July 11, 2017, the date he was last in performance of his duties." The Board took no action on Mr. Predella's claim for benefits under a theory that he is disabled by anxiety or PTSD. (Exhibit 1; SAF 12).

49. On July 7, 2021, Mr. Predella timely appealed to DALA. (SAF 13).

CONCLUSION AND ORDER

As a threshold matter, I observe that although Mr. Predella claims anxiety, PTSD, and hypertension as the bases of his application, the Board's denial is based only on its determination that Mr. Predella is not entitled to accidental disability retirement benefits on the basis of hypertension. The Board has taken no action on his application with respect to his claim that he is entitled to accidental disability retirement benefits because of disabling anxiety or PTSD. Accordingly, this decision addresses only the denial of Mr. Predella's application under a hypertension theory. Nevertheless, as

explained below, consideration of Mr. Predella's claim of disabling hypertension cannot be evaluated without considering his claimed anxiety or PTSD.

G.L. c. 32, § 7(1) allows for accidental disability retirement, provided that a qualified member (1) "is unable to perform the essential duties of his job" and (2) "such inability is likely to be permanent before attaining the maximum age for his group," (3) "by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, his duties at some definite place and at some definite time." To satisfy the third requirement, causation, Mr. Predella relies upon the "heart law," G.L. c. 32, § 94, which provides that if a firefighter suffers from "any condition of impairment of health caused by hypertension … resulting in total or partial disability," the condition will "be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence."

Mr. Predella bears the burden of proving entitlement to accidental disability retirement by a preponderance of the evidence. *Lisbon v. Contrib. Ret. App. Bd.*, 41 Mass. App. Ct. 246, 255 (1996).

Here, the evidence demonstrates that Mr. Predella is disabled from performing his job duties. The symptoms that Mr. Predella experienced on November 18, 2015 and again on July 11, 2017 – chest pains and dizziness – are incompatible with Mr. Predella's firefighting duties. As Dr. McCloy observed: "He gets nervous going to work. He gets nervous at work. His blood pressure goes up and he gets chest pain. This renders him incapable of focusing and performing his job." (Exhibit 6). In other words, anxiety over

his work situation causes increased blood pressure, leading to disabling symptoms such as chest pains.

Even the minority panelist, Dr. Hoffer, does not actually dispute that Mr. Predella is disabled. He merely disputes that the disability is cardiological in nature; he opines instead that Mr. Predella's "major disabling condition is his PTSD related to his work environment." (*Id.*). Regardless of the precise etiology, the medical evidence suffices to demonstrate that Mr. Predella is disabled from performing his firefighting duties.

The medical opinions in the current record do not, however, suffice to establish that Mr. Predella's incapacity is "likely to be permanent." § 7(1). Mr. Predella's disabling symptoms are (to again quote Dr. McCloy) a "manifestation in the cardiac system of the underlying anxiety disorder and panic attacks." (Exhibit 6). But it is not apparent from this record that Mr. Predella has exhausted the reasonable options for successfully managing this anxiety or that it has reached a medical end point.

Mr. Predella participated in therapy for about one year, but it is not clear why he stopped or if he would benefit from additional or different therapy. Likewise, although Mr. Predella has been prescribed medication for his anxiety, the record lacks any medical opinions regarding its efficacy or the alternative medications that might be available to treat it. Without competent medical evidence that Mr. Predella has exhausted reasonable treatment options for the emotional conditions triggering his incapacity, permanence cannot be established. *See, e.g.*, *Rowley v. Everett Ret. Bd.*, CR-19-579, 2022 WL 16921467, at *4 (Div. Admin. Law App. May 6, 2022) ("A disability is not permanent if reasonable treatment would alleviate it."); *Pour v. Westfield Ret. Bd.*,

CR-13-576, 2018 WL 11682002, at *3 (Contrib. Ret. App. Bd. July 23, 2018) (concluding that permanence not established where there was no medical opinion that petitioner's disabling symptoms had reached a "medical end point").

I acknowledge that Drs. McCloy and Honig both offered positive certifications as to permanence. Ordinarily, permanence is "in the heartland of the panel's specialized expertise." *Kirsten K. v. Mass. Teachers' Ret. Sys.*, No. CR-20-675, 2023 WL 415580, at *4 (Div. Admin. L. App. Jan. 6, 2023) (citation and internal quotation marks omitted). Accordingly, "when a medical panel concludes that a member is permanently disabled, it is rare for a nonexpert factfinder to find cause to disagree." *Rosemarie R. v. Amesbury Ret. Sys.*, CR-22-0590, 2024 WL 3101692, at *4 (June 14, 2024) (citation omitted).

Here, however, it is not clear that Dr. McCloy and Dr. Honig are actually opining that Mr. Predella's disabling symptoms are permanent. Rather, their focus seems to be on whether the medical diagnosis of hypertension is permanent, which is not quite the same thing. *See Wayne W. v. Middlesex County Ret. Sys.*, CR-21-0359, 2023 WL 5774616, at *4 (Div. Admin. Law App. Sept. 1, 2023) ("Whether someone is 'disabled' is not defined by any particular diagnosis. Rather, it is defined by whether they can perform the essential duties of their job.").

Turning first to Dr. McCloy, he opines that Mr. Predella's "hypertension certainly is permanent," but he also observes that the disabling symptoms are driven by Mr. Predella's emotional responses to his work situation. (Exhibit 6). Moreover, he seems to acknowledge the possibility that those emotional responses could be improved by medication or therapy. And although Dr. McCloy states that he would "hold on" to a

diagnosis of labile hypertension if Mr. Predella showed a pattern of elevated blood pressure in response to stressful situations, he does not state that this elevated blood pressure would necessarily be incapacitating. (*Id.*). Moreover, his statement is conditional, not predictive: he was not opining that Mr. Predella *would* continue to show a pattern of elevated blood pressure. In sum, Dr. McCloy's opinion is not focused on the permanence of Mr. Predella's disabling symptoms, but rather the permanence of the diagnosis of hypertension.

As for Dr. Honig, he appears to conclude that (1) Mr. Predella is permanently hypertensive because he has had high blood pressure readings, even while he was on blood pressure medication; and (2) Mr. Predella's blood pressure will likely remain reactive to emotional stress. Both of those things may be true, but that does not establish the permanence of Mr. Predella's incapacity. After all, Mr. Predella has had hypertension for years and evidently weathered the emotional stresses associated with firefighting without developing incapacitating symptoms. Nothing in the record indicates that general emotional stress led to disabling elevation in Mr. Predella's blood pressure. Rather, the record indicates that the cause was more specific – it was Mr. Predella's acute psychological reactions to his work conflicts and concerns over policy changes. But Dr. Honig does not opine that those reactions are likely to be permanent.

It is unsurprising that neither Dr. McCloy nor Dr. Honig opine that Mr. Predella's psychological reactions to his work situation are reasonably likely to be permanent. The issue is likely outside their area of expertise as cardiologists. Accordingly, this matter is remanded to the Board so that Mr. Predella may be evaluated by a medical panel that

includes at least one psychiatrist and at least one cardiologist. Although I cannot order a joint examination, *see* 840 CMR 10.08 (5) (providing that "[u]pon request of a member, PERAC shall schedule separate examinations …), I recommend that Mr. Predella elect to be evaluated jointly so that the panel members may be better able to opine on the interrelatedness of Mr. Predella's anxiety (and/or PTSD) and hypertension.[11]

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole
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Timothy M. Pomarole, Esq.
Administrative Magistrate

Dated: May 8, 2026

[11] Although psychological factors may be essential components to Mr. Predella's disability, that does not mean that what *really* incapacitates him is his anxiety (or some other psychological condition) rather than hypertension. *See Canedy v. West Springfield Ret. Bd.*, CR-94-713, at *11 (Div. Admin. Law App. July 25, 1995) (rejecting apparent determination of medical panel that "the component of emotional stress even if it aggravates [applicant's] blood pressure, means there must be a finding of no disabling hypertension or heart disease"). Accordingly, the fact that there may be psychological antecedents to Mr. Predella's disabling elevation in blood pressure does not, itself, preclude him from arguing that he has a "condition of impairment of health caused by hypertension … resulting in total or partial disability" for purposes of establishing causation under the "heart law," G.L. c. 32, §94. I otherwise make no determinations regarding causation.