

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Nancy Quinn-Harrahy,
Petitioner,

No. CR-23-0313

Dated: November 29, 2024

v.

**Massachusetts Teachers' Retirement
System,**

Respondent.

Appearances:

For Petitioner: Jacqueline A. Hartley, Esq.

For Respondent: Salvatore Coco, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

The petitioner suffers from post-concussion syndrome. A preponderance of the evidence supports the conclusion that she is permanently incapacitated as a result of a schoolhouse fall she sustained while walking from one set of job duties to another. The petitioner is therefore entitled to retire for accidental disability.

DECISION

Petitioner Nancy Quinn-Harrahy appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) denying her application to retire for accidental disability. I held an evidentiary hearing on October 16, 2024, at which Ms. Quinn-Harrahy was the only witness. I admitted into evidence exhibits marked 1-74.

Findings of Fact

I find the following facts.

1. Ms. Quinn-Harrahy has been a registered nurse since 1983. For much of her career, she worked as a hospital nurse at St. Joseph's Hospital in Nashua and at Children's

Hospital in Boston. She also taught classes at a licensed practical nursing program. (Testimony; exhibit 1.)

2. In 2005, Ms. Quinn-Harrahy took a job as the school nurse of the Harrington Elementary School in North Chelmsford. Her responsibilities revolved around the health and wellness of the school's students and staff. Ms. Quinn-Harrahy responded to large and small medical issues, ranging from loose teeth to emergent allergic reactions. She educated teachers and students about preventative and emergency care. She stored and tracked first aid supplies and individual students' medications. She kept records relating to patient visits, medications, and other matters regulated by state agencies. (Testimony; exhibits 1, 2, 8-10, 26.)

3. Ms. Quinn-Harrahy was devoted to her job. She often worked long after the 3:00 pm end of her contractually prescribed workday. She sought and obtained a master's degree in school nursing. She underwent additional training so that she could teach CPR to school personnel. (Testimony; exhibit 11.)

4. Over the years, Ms. Quinn-Harrahy has suffered from a number of nontrivial medical issues. She has received injections for back pain. At one point, she contracted Lyme disease. She takes medication for Sjögren's syndrome (an autoimmune problem). Most pertinent to this appeal, Ms. Quinn-Harrahy suffered concussions in approximately 1978 (age 17), 1990 (age 29), and 2010 (age 49). Each concussion was followed by several months of recurrent headaches. Ms. Quinn-Harrahy was not then prescribed drugs for migraines or nausea. She did not miss more than occasional days of work. (Testimony.)

5. Ms. Quinn-Harrahy began the 2019 school year on August 27, 2018, one day before classes were scheduled to recommence. The school's entire staff was supposed to report to the school on that day. Ms. Quinn-Harrahy spent most of the day attending staff conferences,

meeting with parents to collect their children's medications, updating records, and unpacking supplies. She planned to be occupied with these duties until the school building's closing time of 9:00 pm. Her husband was scheduled to deliver a new bulletin board to her office after his workday, at approximately 6:00 pm. (Testimony.)

6. Each year, Ms. Quinn-Harrahy provided the school's teachers with supply kits containing gauze pads, gloves, and other medical basics. Approximately at 5:30 pm on August 27, 2018, Ms. Quinn-Harrahy distributed a boxful of supply kits among teachers' mailboxes. The mailboxes were located a short, uncarpeted corridor away from Ms. Quinn-Harrahy's office. While in the mailbox area, Ms. Quinn-Harrahy met and greeted one of the school's regular cleaning workers. (Testimony.)

7. Ms. Quinn-Harrahy turned to walk back to her office and to the remaining schoolyear-readiness tasks awaiting her there. After taking only a few steps, she slipped and fell. On her way to the ground, Ms. Quinn-Harrahy struck the right side of her head and face on the corridor wall. She was temporarily dazed. When she had collected her thoughts, Ms. Quinn-Harrahy had the impression that the hallway floor felt damp and smelled of cleaning products. She telephoned a colleague for help and warned her about the slippery surface. The colleague arrived and administered a brief neurological screening. (Testimony.)

8. Later that night, Ms. Quinn-Harrahy's husband took her to the urgent care department of the Southern New Hampshire Medical Center. She was diagnosed with a concussion and instructed to monitor her symptoms. She returned to the hospital two days later, presenting with a headache, sensitivity to light, and a sensation of "brain fog"; her chiropractor had noticed that she was slurring her words and behaving oddly. Further testing remained consistent with a concussion. (Testimony; exhibits 16, 17, 38.)

9. Ms. Quinn-Harrahy filed a prompt notice of injury. She has not returned to work since the day of her accident. Her school placed her on medical leave as of that day. She has pursued a successful workers' compensation claim. (Testimony; exhibits 13, 14, 27.)

10. During the ensuing months, Ms. Quinn-Harrahy underwent evaluations and treatment at Concentra Occupational Health and Spaulding Hospital. Her case at Spaulding was overseen by Dr. Stephanie Cho. The forms of treatment provided to Ms. Quinn-Harrahy included medication, speech-language therapy, physical therapy, and occupational therapy. Her apparent initial progress soon dissipated and slowed. Her long-term symptoms have included headaches, nausea, sensitivity to light, and cognitive difficulties. Her providers have mainly described her diagnosis as post-concussion disorder. (Testimony; exhibits 18, 21.)

11. Some of Ms. Quinn-Harrahy's issues, but not all, have improved over time. She is now able to drive when she needs to. She is able to cook again. She remains especially sensitive to fluorescent and incandescent lighting. With specialized dark glasses on, she is able to enter commercial buildings for brief periods. She continues to feel overwhelmed and distressed by cognitively challenging tasks. (Testimony.)

12. In March 2020, Ms. Quinn-Harrahy applied to retire for accidental disability. Dr. Cho wrote a treating physician's statement and another letter on Ms. Quinn-Harrahy's behalf. A regional medical panel consisting of Dr. Julian Fisher (neurology), Dr. Aymen Elfiky (internal medicine), and Dr. Daniel Vardeh (neurology) was convened. The panelists conducted separate examinations during April-May 2022. A panel majority then executed certificates supportive of Ms. Quinn-Harrahy's application. (Exhibits 1, 3-5, 31.)

13. Dr. Fisher described Ms. Quinn-Harrahy's diagnosis as "prolonged post-concussion syndrome with . . . multiple facets," which he viewed as permanently disabling. He

wrote: “[Ms.] Quinn-Harrahy has suffered a fourth concussion, which . . . substantially aggravated her symptoms, and this time has resulted in a failure of recovery unlike the past occasions. This has as its consequences headaches triggered by external sources such as fluorescent lights, crowds and stresses. It is also characterized by increased emotionality and irritability with decreased concentration under stress.” (Exhibit 3.)

14. Dr. Elfiky agreed, listing Ms. Quinn-Harrahy’s symptoms as “photophobia, for which she uses her glasses on bright or sunny days, as well as dizziness and imbalance with walking, for which she is reliant on [medication] . . . and lastly the cognitive deficits, which are characterized by difficulty concentrating on a task for a prolonged period of time or quickly adapting to new situations.” Dr. Elfiky opined that Ms. Quinn-Harrahy’s deficits “would pose an added risk to those around her who are dependent on her being able to function at full capacity.” He explained: “[S]he would not be able to perform any urgent assessment skills or CPR if required, in addition to the fact that having photosensitivity due to the lights in the building causes headaches, with the recovery taking a few hours at a time.” (Exhibit 4.)

15. Dr. Vardeh returned a dissenting certificate. He acknowledged that the symptoms resulting from Ms. Quinn-Harrahy’s workplace fall “escalated into a post-concussive syndrome, which has been intractable and disabling.” But he said: “[H]er neurological exam is entirely intact. This includes my judgment of her cognitive abilities [H]er balance appears excellent. . . . [S]he does not carry sunglasses. . . . I do not see a distinct medical or neurological reason why she cannot return to her previous work as a school nurse, possibly with minor modifications.” (Exhibit 5.)

16. Ms. Quinn-Harrahy has also undergone evaluations with other physicians. In April 2019, Dr. Walter Panis diagnosed her with post-concussion syndrome, deemed her

incapable of working, and saw no indication that she was overstating her symptoms. In October 2019, Dr. Paul Chervin disagreed on all counts, going as far as to doubt whether Ms. Quinn-Harrahy had sustained any injury in the first place. Most recently, in late 2022 and early 2023, Dr. Neil McGrath conducted a comprehensive neuropsychological evaluation. He found most of Ms. Quinn-Harrahy's results to be normal, but added: "Current neuropsychological test results show persisting limitations primarily related to difficulties with effective visual scanning and tolerance of certain visual stimuli and activities." (Exhibits 23, 29, 30.)

17. In May 2023, MTRS denied Ms. Quinn-Harrahy's retirement application, citing various points discussed below. Ms. Quinn-Harrahy timely appealed. (Exhibits 6, 7.)

Analysis

A public employee seeking to retire for accidental disability must establish three essential elements: that she "is unable to perform the essential duties of [her] job," that the disability "is likely to be permanent," and that the disability arose "by reason of a personal injury sustained . . . as a result of, and while in the performance of, [the employee's] duties." G.L. c. 32, § 7(1).

MTRS first questions whether Ms. Quinn-Harrahy was "in the performance of[] her duties" when she sustained her fall. This statutory requirement is "strict." *Damiano v. Contributory Ret. Appeal Bd.*, 72 Mass. App. Ct. 259, 259 (2008). It is not always enough for the employee to have been walking around the workplace. *See Namvar v. Contributory Ret. Appeal Bd.*, 422 Mass. 1004, 1005 (1996); *Boston Ret. Bd. v. Contributory Ret. App. Bd. (Palmeri)*, 340 Mass. 109, 111 (1959). But the statute is satisfied where the employee was "going from one place at which she had an employment obligation to another such place." *Richard v. Worcester Ret. Bd.*, 431 Mass. 163, 165 (2000). *See Combra v. State Bd. of Ret.*, No.

CR-18-2021, 2021 WL 9697045 (DALA July 16, 2021). Ms. Quinn-Harrahy suffered her accident on the way from distributing medical supply kits to her other pre-schoolyear responsibilities. *See supra* pp. 2-3, ¶¶ 5, 7.¹

Turning to incapacity and permanence, these statutory elements pose quintessential medical questions. Lay factfinders must be guided as to such questions by expert analysis. *See Robinson v. Contributory Ret. Appeal Bd.*, 20 Mass. App. Ct. 634, 639 (1985). In the context of accidental disability retirement, the law assigns primary responsibility for medical matters to the regional medical panels. *See Malden Ret. Bd. v. Contributory Ret. Appeal Bd.*, 1 Mass. App. Ct. 420, 423 (1973). “That regulatory technique is built to resolve even cases that generate divergent expert assessments.” *Robillard v. State Bd. of Ret.*, No. CR-18-470, 2022 WL 18283524, at *4 (DALA Dec. 19, 2022). *See also Rosemarie R. v. Amesbury Ret. Syst.*, No. CR-22-590, 2024 WL 3101692, at *4-5 (DALA June 14, 2024). In Ms. Quinn-Harrahy’s case, the “yes” answers provided by majority panelists Dr. Fisher and Dr. Elfiky appear perfectly sound. They are buttressed by the views of treating physician Dr. Cho, evaluator Dr. Panis, and evaluator Dr. McGrath. They are consistent with Ms. Quinn-Harrahy’s credible testimony at the evidentiary hearing.

The final question presented is whether Ms. Quinn-Harrahy’s incapacity was proximately caused by her workplace accident. Ms. Quinn-Harrahy has carried her burden of proving this element by a preponderance of the evidence. *See Lisbon v. Contributory Ret. Appeal Bd.*, 41 Mass. App. Ct. 246, 255 (1996). As of the time of the accident, Ms. Quinn-Harrahy had been working for years without any concussion-related issues. Her symptoms materialized promptly

¹ MTRS does not suggest that accidental disability retirement is unavailable whenever an employee was injured while working in excess of her formally contracted hours. *Cf. Handy v. State Bd. of Ret.*, No. CR-10-301, at *3 (DALA Nov. 29, 2013).

after her accident and remained disruptive thereafter. The panel majority and Dr. Cho analyzed Ms. Quinn-Harrahy's fall as a medically possible cause of her current condition. Dr. Fisher went further, describing the fall as the *actual* cause of the incapacity, *see Narducci v. Contributory Ret. Appeal Bd.*, 68 Mass. App. Ct. 127, 134-35 (2007), through aggravation of a preexisting condition, *see Baruffaldi v. Contributory Ret. Appeal Bd.*, 337 Mass. 495, 501 (1958). No alternative theory as to the cause of Ms. Quinn-Harrahy's condition is supported by any expert's analysis.² *See Robinson*, 20 Mass. App. Ct. at 639.

Conclusion and Order

In view of the foregoing, Ms. Quinn-Harrahy is entitled to retire for accidental disability. MTRS's contrary decision is REVERSED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

² The opinions adverse to Ms. Quinn-Harrahy focused on matters other than causation. *See supra* pp. 5-6, ¶¶ 15-16.