

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

George Yantsides,
Petitioner

v.

Docket No. CR-22-0351

**State Board of Retirement
& Public Employee Retirement Administration Commission,**
Respondents

Appearance for Petitioner:

Sally Clymer, Esq.

Appearance for the State Board of Retirement:

Brendan McGough, Esq.

Appearance for the Public Employee Retirement Administration Commission:

Felicia Baruffi, Esq.

Administrative Magistrate:

Timothy M. Pomarole, Esq.

SUMMARY OF DECISION

The Petitioner, a former mental health worker, applied for accidental disability retirement benefits, claiming disabling post-concussion syndrome and post-traumatic stress disorder following a violent attack by a patient. A majority of the regional medical panel convened to examine the Petitioner declined to certify the statutory elements of disability, permanence, and causation. A “negative panel” typically precludes an award of accidental disability retirement benefits. There are a limited number of exceptions to this rule, but none of them apply here. The Petitioner is not entitled to retire for accidental disability.

DECISION

The Petitioner, George Yantsides, appeals the decision by the State Board of Retirement to deny his application for accidental disability retirement benefits under G.L. c. 32, § 7. At the parties' request, this appeal is being decided on written submissions pursuant to 801 CMR 1.01(10)(c). I admit the parties' jointly proposed exhibits into evidence as Exhibits 1-29. I admit Mr. Yantsides's proposed exhibits as Exhibits 30-32. The parties' agreed upon facts will be cited by paragraph number as "(AF __)."

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. Yantsides was a mental health worker at the Pocasset Mental Health Facility in Pocasset, Massachusetts. (Exhibit 1, p. 7).¹
2. On March 18, 2019, a patient attacked Mr. Yantsides, punching him in the head. He struck Mr. Yantsides several additional times. Mr. Yantsides fell to the floor. It is not clear if Mr. Yantsides lost consciousness, but he was, at the very least, stunned and disoriented by the assault. (Exhibit 1, pp. 9, 323, 331, 334).
3. Mr. Yantsides had personally experienced and witnessed prior violent episodes at work. (Exhibit 1, pp. 6, 212, 319, 331; Exhibit 9).

¹ Exhibit 1 is Mr. Yantsides's application for accidental disability retirement, including medical documentation. Because of its length and the number of documents, page numbers will accompany citations to this exhibit.

4. March 18, 2019, was the last day on which Mr. Yantsides performed work duties. (Exhibit 1, p. 6).
5. After the assault, Mr. Yantsides was taken by ambulance to the emergency department of Falmouth Hospital, where he complained of a headache and neck pain. On physical exam, other than swelling at the right upper lip, there was no visible sign of injury. The neurological examination was normal. X-rays of his spine and a CT scan of his head showed no acute abnormalities or fractures. (Exhibit 1, pp. 323, 330).
6. On March 20th, 2019, Mr. Yantsides was seen by his primary care physician, Dr. James O'Connor, MD. He reported some nausea, but denied dizziness, vomiting, or confusion. He was alert and attentive throughout the interview and exam and was able to follow complex commands. His short and long-term memory was deemed normal. His fund of knowledge was appropriate with conversational testing. His speech was fluent and appropriate, and he was able to name objects correctly. Mr. Yantsides's affect was blunted. His gait was described as steady. (Exhibit 1, pp. 324-25).
7. Mr. Yantsides was seen again by Dr. O'Connor on March 26, 2019. Mr. Yantsides's wife, a physician, prepared a list of concerns, including increased forgetfulness, fatigue, irritability, confusion, diminished concentration, dizziness with movement, slowness in responding to questions, and balance issues. (Exhibit 1, p. 325).
8. On March 31, 2019, an MRI of Mr. Yantsides's head showed no significant

abnormalities. (Exhibit 1, p. 332).

9. On April 8, 2019, Mr. Yantsides was seen by Dr. Scott Abramson, MD, a psychiatrist. Mr. Yantsides complained of neck pain, headache, dizziness, sensitivity to light, mental fog, feeling slowed down, forgetfulness, nervousness, sadness, emotional lability, and balance problems. He also reported a fear of returning to work. After a physical examination, Dr. Abramson assessed that Mr. Yantsides was alert and oriented, followed two- and three-step commands, and answered questions appropriately. He had difficulty with his gait and balance. Dr. Abramson also reported that Mr. Yantsides's mood and affect were appropriate, but he seemed easily exasperated and he challenged what his wife was reporting. Dr. Abramson diagnosed him with post-concussion syndrome. (Exhibit 1, pp. 212-16).²
10. Mr. Yantsides participated in physical therapy, occupational therapy, and speech therapy over the course of about three months. (Exhibit 1, pp. 333).
11. At some point, Mr. Yantsides filed a worker's compensation claim. He was surveilled in April, May, and July of 2019 in connection with those proceedings. (AF 6; Exhibits 27-29).³
12. On June 10, 2019, Mr. Yantsides was seen by Dr. Mark Cutler, MD, for a

² The records refer to both "post-concussion" and "post-concussive" syndrome. Based on the record before me, these appear to be interchangeable terms for present purposes. I will use "post-concussion syndrome" unless quoting from a source that employs the other term.

³ The record does not clearly indicate who requested the surveillance.

psychiatric evaluation, likely in relation to his worker's compensation claim.

Mr. Yantsides complained of decreased concentration, anhedonia, and social withdrawal. When Dr. Cutler asked him what he would do if he found a stamped and addressed envelope in the street, Mr. Yantsides replied that he would leave it alone. Mr. Yantsides did not know how much $8 + 8$ was or how much $14 - 7$ was. Dr. Cutler diagnosed him with a major cognitive disorder secondary to head trauma, acute stress disorder, and pain disorder. (Exhibit 1, p. 333).

13. In an April 29, 2019 follow-up visit with Dr. Abramson, Mr. Yantsides reported that he was getting sweaty and anxious when he thought about the assault or returning to work. (Exhibit 1, p. 209).
14. On May 20, 2019, Dr. Abramson reported that Mr. Yantsides was making good progress in physical therapy and that he had a "brighter" affect and was less anxious, but was still getting "overwhelmed when discussing the assault and the difficulties in dealing with the insurance." (Exhibit 1, pp. 206-08).
15. In a July 16, 2019 note, Dr. Abramson stated that Mr. Yantsides was making progress with respect to his physical symptoms, but was having more anxiety and bouts of depression – particularly when he thought about the attack and the prospect of returning to work. (Exhibit 1, p. 201).
16. On August 29, 2019, Dr. Abramson's impressions for the first time included "anxiety disorder due to brain injury," in addition to the preexisting impression of "post-concussion syndrome." (Exhibit 1, pp. 198-99).

17. On August 15, 2019, Mr. Yantsides was evaluated by Dr. Jean Dalpe, MD in connection with his worker's compensation claim. Dr. Dalpe noted that Mr. Yantsides complained of memory problems, sensitivity to light, headaches, and fatigue. (Exhibit 1, pp. 319-27).
18. Dr. Dalpe concluded that Mr. Yantsides did not "meet DSM-5 criteria for any major psychiatric illness, including major neurocognitive disorder or posttraumatic stress disorder and pain disorder." She continues: "In my opinion, the claimant's report of symptoms is not credible. Review of the medical records indicate[s] that the claimant had a very mild head injury. The emergency room record indicates that he had a Glasgow coma score of 15. There was no neurological impairment. His CT scan of the brain was normal." Dr. Dalpe added that a subsequent MRI of the brain was negative and there was no loss of consciousness. (Exhibit 1, pp. 326-27).
19. Dr. Dalpe also observed that the score Mr. Yantsides received on the minimal status exam she performed, indicating severe cognitive impairment, was "inconsistent with his presentation, command of the English language and his ability to carry on a detailed discussion" and his "report of progressive cognitive complaints" was not consistent with the course of post-concussion syndrome, which is characterized by "sudden onset and gradual improvement over time." (Exhibit 1, p. 327).
20. Dr. Dalpe remarked that there is "indication of symptom exaggeration and magnification" and summarized her opinion as follows:

[T]he claimant has no psychiatric condition attributable to this injury. His report of symptoms is not credible. There is no evidence from contemporaneous medical records from Falmouth hospital ED suggesting significant brain injury. No psychiatric treatment is indicated. The claimant has no functional psychiatric impairment. Given the medicolegal context of this case, secondary gain must be considered.

(Exhibit 1, 327).

21. On August 22, 2019, Mr. Yantsides was evaluated by Dr. Amin Sabra, MD in connection with his worker's compensation claim. Mr. Yantsides reported that he was afraid of returning to work. Mr. Yantsides also reported sensitivity to light such that he had to wear sunglasses at all times when outside and that he is wobbly and walks with a slow gait. Dr. Sabra concluded that, by July 2019, Mr. Yantsides would have reached "a medical endpoint with regards to his concussion and post-concussion syndrome," at which time he would have been able to resume his regular job with no restrictions. (Exhibit 1, pp. 330-35).
22. Dr. Sabra did not address Mr. Yantsides's fear of returning to work. As for concussion and post-concussion syndrome, he opined that Mr. Yantsides had "recovered completely and [did] not require further treatment." (Exhibit 1, p. 335).
23. On August 28, 2019, Dr. Sabra provided an addendum to his report following his review of video surveillance showing Mr. Yantsides driving a car, walking briskly with no loss of balance, and standing outside in the sun for an extended period of time without sunglasses. Dr. Sabra stated that the video suggested inconsistency between what Mr. Yantsides reported during his

examination with respect to his sensitivity to light and his balance and his actual capacities. Dr. Sabra also opined that there was inconsistency between what was depicted in the surveillance video and the cognitive capacities displayed in his (Dr. Sabra's) and Dr. Cutler's examinations. Dr. Sabra remarked "There certainly is a discrepancy and exaggeration between what he tells his doctors and what he is actually able to do." (Exhibit 1, p. 328).

24. On October 10, 2019, Mr. Yantsides was awarded temporary total incapacity compensation under G.L. c. 152, § 34, temporary partial incapacity under G.L. c. 152, § 35, and medical benefits under G.L. c. 152, § 50. (Exhibit 3).

25. At the request of the Division of Industrial Accidents, Mr. Yantsides underwent an independent psychiatric evaluation by Dr. Michael Kahn, MD.

In his December 13, 2019 report, Dr. Kahn states:

The situation is complicated. The MOCA appears to show signs of both conscious lack of effort as well as significant frontal impairment. His mentation does indeed appear quite slowed, and it would appear unsafe for him to return to his prior job given his lack of reactivity and general, mild confusion.

I would diagnose him with an adjustment disorder with depressed mood, as well as cognitive disorder, not otherwise specified. Both of these are likely the result of the industrial injury sustained, given his prior unproblematic functioning, but full neuropsychological testing would help to clarify his cognitive status. I believe he is totally and temporarily psychiatrically disabled at this point, and although his cognition may continue to improve over the next six months, I think the likelihood of his returning to work at his old job is virtually nil. I do not believe a psychiatric endpoint has been reached.

(Exhibit 1, p. 318).⁴

26. On August 5, 2020, Mr. Yantsides filed an application for accidental disability retirement benefits. (AF 1; Exhibit 1, pp. 5-22).
27. In his application, Mr. Yantsides claims that he can “no longer perform the essential duties of my job due to acute post traumatic stress syndrome and post concussive syndrome.” The statement by his treating physician, Dr. Abramson, diagnoses Mr. Yantsides with post-traumatic stress disorder, anxiety, and post-concussion disorder. (Exhibit 1, pp. 6, 25).
28. In August 2021, Mr. Yantsides was evaluated individually by a regional medical panel consisting of three psychiatrists: Peter Cohen, MD; Melvyn Lurie, MD; and Robert Ferrell, MD. (Exhibits 7-9).
29. Dr. Cohen issued a positive certificate as to disability and permanence, but a negative certificate as to causation. (Exhibit 7).
30. In the narrative portion of his opinion, Dr. Cohen diagnosed Mr. Yantsides with (1) “anxiety disorder, not otherwise specified”; (2) “mild cognitive impairment”; and (3) “post concussive syndrome, resolved.”
31. Dr. Cohen remarked:

Based on my review of his records along with the interview today, George Yantsides does not appear able to perform the duties of his previous job as a Mental Health Worker II at Pocasset Mental Health Center. It is unclear, however, that the inability is due to the injury he sustained on the job on March 18, 2019. Information gleaned on evaluation today and over several different evaluations suggests that his complaints, none of

⁴ I assume the term “MOCA” refers here to the Montreal Cognitive Assessment (or “MoCA”), which is a screening instrument for cognitive dysfunction. <https://mocacognition.com/> (last visited January 21, 2026).

which were substantiated on examination, are not commensurate with the degree of injury that he had sustained.

(Exhibit 7).

32. With respect to causation, Dr. Cohen also stated that it “is my further opinion that his inability to perform the duties of his previous employment is not related directly to the injury that he sustained on the job.” (Exhibit 7).

33. Dr. Ferrell issued a negative certificate as to disability and did not reach the other two statutory questions. In his narrative, Dr. Farrell diagnosed Mr. Yantsides with (1) “Adjustment disorder, Nonspecific”; and “Rule Out Cognitive Disorder Not Otherwise Specified.” (Exhibit 9).

34. Dr. Ferrell concluded that Mr. Yantsides “does not have a psychiatric disorder or neurological disorder disabling him as a result of the trauma experienced 3/18/19.” (Exhibit 9).

35. With respect to Mr. Yantsides’s neurological complaints, Dr. Ferrell noted Dr. Sabra’s findings that Mr. Yantsides had no “persistent deficit impairing his ability to function in his usual work capacity” and acknowledged that those findings were inconsistent with those of Dr. Abramson. Dr. Ferrell reported “a significant amount of vagueness in answering questions about his continued difficulties which were commented on as physically incapacitating beyond the level of activity to which he is now able to perform,” the latter comment appearing to refer to the surveillance video footage, which reportedly depicts Mr. Yantsides going outside without sunglasses and

moving without a gait disturbance. (Exhibit 9).⁵

36. Turning to Mr. Yantsides's psychiatric complaints, Dr. Ferrell wrote: "The claimant presents no acute psychiatric pathology and denies persistence of symptoms of anxiety or depression and no evidence of a thought disorder." Dr. Farrell added: "In Dr. Kahn's evaluation of 12/13/19, and in this evaluation today, it is apparent there is at least a diagnosis of an adjustment disorder but no definitive extent to which a cognitive disorder is involved." (Exhibit 9).

37. Dr. Ferrell provided the following conclusion regarding Mr. Yantsides's psychiatric symptoms:

It is therefore necessary to conclude that at this point there is persisting evidence of a mild psychiatric condition associated with adjustment disorder but it is the opinion of this evaluator that there is no persisting thought or emotional disorder which would prevent him from gaining employment at his former facility or elsewhere. From a psychiatric perspective, the absence of a severe psychiatric disorder does not warrant a determination of disability nor does it appear that further time or treatment are going to determine that he has not reached an end point in regards to psychiatric status.

(Exhibit 9).

38. Dr. Lurie issued a positive certificate as to all three statutory questions. Dr. Lurie did not clearly recite a diagnosis, but it appears that his opinion is that Mr. Yantsides is permanently disabled by PTSD or by a supervening depression that has caused "psychomotor retardation with impaired ability

⁵ The video footage itself is not part of the record before me. Its contents are described by the physicians who examined Mr. Yantsides, as well as three investigation reports. (Exhibits 27-29).

to express himself by speech.” Dr. Lurie largely appeared to attribute Mr. Yantsides’s disability to the March 2019 assault because Mr. Yantsides had “functioned satisfactorily” prior to the assault. (Exhibit 9).

39. On September 23, 2021, Mr. Yantsides, through counsel, raised various objections to the reports by Drs. Cohen and Farrell. (Exhibit 14).
40. On October 6, 2021, Mr. Yantsides was hospitalized at Cape Code Hospital after expressing suicidal and homicidal thoughts following perceived setbacks in his application for disability benefits. He reportedly expressed a desire to kill the individuals who evaluated him and doubted his claimed symptoms. (Exhibit 13).
41. After issuing their opinions, the Board provided the panelists with the records from Mr. Yantsides’s October 6, 2021 hospitalization. Upon review of these records, none of the three physicians changed their respective opinions. (Exhibits 10-12).
42. In a January 26, 2022 addendum to his evaluation, Dr. Cohen remarked that “my original opinion that his reported psychiatric distress was not consistent with or causally related to his workplace assault is unchanged following a review of the Cape Cod hospital record.” (Exhibit 10).
43. In a March 11, 2022 addendum, Dr. Ferrell remarked that “it is very significant that the claimant’s behavior and threats followed upon the determination of his disability status in opposition to his expectations. It was also apparent in the evaluations from Cape Cod Hospital that he was

coherent, rational, and functioning at a high baseline level.” (Exhibit 12).

44. On March 24, 2022, Mr. Yantsides reiterated his objections to the reports by Dr. Cohen and Dr. Ferrell and proposed requests for clarification from both physicians. (Exhibit 15).
45. Mr. Yantsides later requested that two new medical panels be appointed: one consisting of specialists in neurology and one consisting of specialists in psychiatry. On April 28 2022, the Board voted to request a “joint panel,” consisting of at least one neurologist and one psychiatrist. In addition, in the event PERAC declined to convene such a panel, the Board voted to seek clarification from Dr. Ferrell (but not from Dr. Cohen). (Exhibits 14, 16-17).
46. The Board made the request to PERAC on June 14, 2022. (Exhibit 19).
47. By letter to the Board dated July 7, 2022, PERAC declined to convene a new medical panel or seek clarification from any of the panelists. (Exhibit 20).
48. At a Board meeting on July 28, 2022, the Board voted to deny the petitioner's application for accidental disability retirement. In a letter dated August 2, 2022, the Board notified Mr. Yantsides that his application for accidental disability retirement had been denied. (Exhibit 21).
49. Mr. Yantsides timely appealed. (Exhibit 22).
50. On February 8, 2023, Mr. Yantsides moved to join PERAC as a party in this matter. On February 13, 2023, that motion was allowed.

CONCLUSION AND ORDER

An applicant for accidental disability retirement must establish (1) “that he is unable to perform the essential duties of his job”; (2) that the incapacity “is likely to be permanent”; and (3) that the incapacity arose “by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, [the member’s] duties.” G.L. c. 32, § 7(1).

“A condition precedent for awarding accidental disability” is that “[a] majority of the panel must conclude the applicant is permanently unable to perform his essential job duties and that there is a medical possibility of a causal relationship between the disability and a personal injury or hazard undergone while performing his duties.” *Brady v. Weymouth Ret. Bd.*, CR-20-0201, *10 (Div. Admin. L. App. Jul. 15, 2022) (citing *Lisbon v. Contributory Ret. App. Bd.*, 41 Mass. App. Ct. 246, 255 (1996)). Accordingly, a “negative panel report generally precludes an applicant from receiving accidental or involuntary disability retirement benefits.” *Chiasson v. Worcester Ret. Bd.*, CR-17-867, 2021 WL 9697044, at *6 (Div. Admin. Law App. Dec. 10, 2021) (citing *Quincy Ret. Bd. v. Contributory Ret. App. Bd.*, 340 Mass. 56, 60 (1959)).

Nevertheless, the “general rule that a negative panel ends an application for accidental or involuntary disability retirement benefits has a few exceptions: if the medical panel did not ‘conform[] to the required procedure of physical examination’; it lacked ‘all the pertinent facts’; it used an erroneous legal standard; or the medical certificate was ‘plainly wrong.’” *Beauregard v. Fall River Ret. Bd.*, CR-18-0498, at *4 (Div. Admin. L. App. Mar. 11, 2022) (citing *Kelley v. Contrib. Ret. App. Bd.*, 341 Mass. 611,

617 (1961)). Moreover, “sometimes a doctor (or panel) report is so imprecise or confusing as to require a remand for clarification or a new panel.” *Desisto v. Boston Ret. Sys.*, 24-CR-0035, 2025 WL 1835962, at *4 (Div. Admin. L. App. June 27, 2025) (citing *McEachern v. Weymouth Ret. Bd.*, CR-17-855, 2025 WL 1092634 (Div. Admin. L. App. Apr. 4, 2025); *Raposa v. New Bedford Ret. Bd.*, CR-21-0358 (Div. Admin. L. App. Jan. 10, 2025)).⁶

Notwithstanding these exceptions, “where there has been a determination ... by the panel, applying proper procedures and correct principles of law,” an “applicant does not have an opportunity for a retrial of the medical facts.” *Kelley v. Contrib. Ret. Appeal Bd.*, 341 Mass. 611, 617 (1961).

Here, Mr. Yantsides contends that the Board’s decision denying his application for accidental disability retirement benefits was improper because the negative certificate by Dr. Cohen (who certified disability, but not causation) and by Dr. Ferrell (who declined to certify disability) suffered from various infirmities. He does not frame all of his critiques in terms of the bases described above, (“erroneous legal standard,” “plainly wrong,” *etc.*) but most of them can be fairly construed as complaints that the doctors’ opinions are “plainly wrong” in various respects. I discuss Mr. Yantsides’s criticisms in turn.

⁶ A confusing or imprecise report could also be categorized as “plainly wrong” because “the report does not make sense or does not hold up to scrutiny.” *Frakes v. State Bd. of Ret.*, CR-21-0261, 2022 WL 18398908, at *8 (Div. Admin. L. App. Dec. 23, 2022).

A. Dr. Cohen's Opinion1. *Alleged inconsistencies between Dr. Cohen's negative certification and his narrative.*

Mr. Yantsides asserts that Dr. Cohen's negative certification as to causation is "plainly wrong" because it is inconsistent with the narrative portion of his opinion, which states that: (1) it is "unclear that" his disability "is due to the injury he sustained on the job on March 18, 2019"; and (2) his disability is "not related directly to the injury that he sustained on the job."⁷ He asserts that both of these statements are effectively affirmative answers to the question of whether his disability "is such as might be the natural and proximate result" of the claimed injury.

Mr. Yantsides's argument is unavailing. First, Dr. Cohen's comment that it was "unclear" that Mr. Yantsides's disability was caused by the March 18, 2019 attack is immediately followed by his observation that various examinations indicated that Mr. Yantsides's complaints were "not commensurate with the degree of injury he had sustained." And in the January 26, 2022 addendum to his opinion, he characterizes his "original opinion" as follows: Mr. Yantsides's "reported psychiatric distress was not consistent with or causally related to his workplace assault." When viewed in context, Dr. Cohen's use of the word "unclear" is not inconsistent with his negative certification on causation.

⁷ The relevant passages in full are: "It is unclear, however, that the inability is due to the injury he sustained on the job on March 18, 2019" and "It is my further opinion that his inability to perform the duties of his previous employment is not related directly to the injury that he sustained on the job." (Exhibit 7).

As for Dr. Cohen's comment that Mr. Yantsides's disability "is not related directly to" the injury, Mr. Yantsides appears to assume that by stating that there was no "direct" relationship, Dr. Cohen was thereby intending to convey that there *was* an *indirect* relationship. The assumption is unfounded. And even if Dr. Cohen meant to imply an indirect relationship, Mr. Yantsides does not specify what the "indirect" relationship might be. In any case, it is doubtful an indirect relationship would suffice. To satisfy the causation requirements of § 7(1), it is not sufficient for the workplace hazard or injury to be a "mere contributing cause"; it must be the "natural and proximate" cause of the disability. *Ret. Bd. of Revere v. Contrib. Ret. App. Bd.*, 36 Mass. App. Ct. 99, 107 (1994) (quoting *Campbell v. Contrib. Ret. App. Bd.*, 17 Mass. App. Ct. 1018, 1019 (1984) (internal quotation marks omitted)).

All told, the import of Dr. Cohen's narrative is consistent with his negative certification as to causation.

2. *The fact that Dr. Cohen does not discuss alternative causes for Mr. Yantsides's condition.*

The next assertion is that Dr. Cohen failed to address the following question contained in the panel instructions:

Is there any other event or condition in the member applicant's medical history, or in any other evidence provided to the panel, other than the personal injury sustained or hazard undergone upon which the disability retirement is claimed, that might have contributed to or resulted in the disability claimed? (Exhibit 7).

The fact that Dr. Cohen's narrative does not expressly discuss alternative causes is of little consequence here. Dr. Cohen's negative certification as to causation renders moot the need to outline other possible causes because it necessarily entails a

conclusion that “some other event or condition” “might have contributed to or resulted in” the disability.

3. *Dr. Cohen’s physical examination of Mr. Yantsides*

The next claim is that Dr. Cohen did not conduct an adequate hands-on examination of Mr. Yantsides’s balance and gait complaints, which relate to his claimed post-concussion syndrome.

I note first that Mr. Yantsides’s critique is based on inferences from Dr. Cohen’s narrative and not from his own observations – or from the observations of counsel or his wife (who is a physician), both of whom accompanied him. This makes his complaint somewhat indefinite, couched in terms such as “there is no evidence that” Dr. Cohen performed a physical examination of Mr. Yantsides’s balance and gait. Nevertheless, because Dr. Cohen’s narrative describes the mental health status examination that he performed, but does not state that he physically examined Mr. Yantsides’s balance and gait, it is not unreasonable to infer that no such examination occurred.

Regardless, it “is within the panelists’ purview to select the tests and inquiries that, in their expert opinion, a particular case warrants.” *Robillard v. State Bd. of Ret.*, CR-18-470, 2022 WL 18283524, at *3 (Div. Admin. L. App. Dec. 19, 2022). I can discern no basis for second-guessing the manner in which Dr. Cohen elected to examine Mr. Yantsides and evaluate his complaints. For example, I cannot say that it would have been improper for Dr. Cohen to rely upon video surveillance footage rather than a physical examination. Because the former was captured without Mr. Yantsides’s knowledge, Dr. Cohen might have determined that it would have reflected a more

natural and candid picture of Mr. Yantsides's capacities than would a hands-on examination when Mr. Yantsides knew his movements would be carefully scrutinized. Such decisions are squarely within the purview of a panelist's medical judgment.

4. *The adequacy of Dr. Cohen's explanations for his conclusion that Mr. Yantsides does not suffer from post-concussion syndrome or PTSD.*

Mr. Yantsides complains that Dr. Cohen does not adequately explain his opinion that he does not suffer from post-concussion syndrome or PTSD. Specifically, Mr. Yantsides faults Dr. Cohen for not discussing Dr. Abramson's opinion that he suffers from post-concussion syndrome and PTSD. Mr. Yantsides also contends that Dr. Cohen's only statement supporting his declination to diagnose these conditions is his comment that Mr. Yantsides's "complaints are not commensurate with the degree of injury." (Petitioner Memorandum, at 3).⁸ Although not spelled out, in view of the fact that Dr. Cohen *did* certify disability (albeit based on different conditions – anxiety disorder, not otherwise specified and mild cognitive impairment), the tacit assumption behind Mr. Yantsides's arguments is that if Dr. Cohen failed to properly diagnose Mr. Yantsides, his declination to certify causation cannot stand.⁹ In any case, Mr. Yantsides's arguments lack merit.

First, Dr. Cohen's narrative reflects that he reviewed Dr. Abramson's records, the opinions of other physicians who evaluated Mr. Yantsides, and the results of the

⁹ Mr. Yantsides focuses on Dr. Cohen's declination to diagnose him with post-concussion syndrome or with PTSD. He does not identify any flaws in Dr. Cohen's causation analysis with respect to the disabling conditions that Dr. Cohen found that Mr. Yantsides *did* have, namely, anxiety disorder and mild cognitive impairment.

objective medical tests. Having reviewed this material and after conducting his own examination, Dr. Cohen reached his own affirmative diagnoses and his own conclusions regarding disability, permanence, and causation. He was not obliged to rebut Dr. Abramson's diagnoses, as Mr. Yantsides appears to assume. The fact that medical panelists may choose to "concentrate in their reports on explanations in support of their ultimate opinions" and not discuss other evidence, or even contrary evidence, does not, standing alone, constitute a "legally fatal flaw." *McCarthy v. Contrib. Ret. App. Bd.*, 16 Mass. L. Rptr. 353, 2003 WL 21500543, at *5 (Mass. Super. Ct. April 22, 2016).

Second, Dr. Cohen's narrative contains sufficient information to understand his opinions. In addition to referencing his own mental status examination, Dr. Cohen discusses the conclusions of prior physicians who had examined Mr. Yantsides, including: (1) Dr. Sabra's conclusion that Mr. Yantsides's post-concussion syndrome had resolved and that some of his claimed symptoms of post-concussion syndrome were inconsistent with the surveillance footage; (2) Dr. Dalpe's conclusion that Mr. Yantsides did not meet the criteria for any major psychiatric illness, including PTSD; and (3) Dr. Kahn's diagnosis of adjustment disorder with depressed mood and cognitive disorder not otherwise specified. These references serve as a serviceable shorthand in this context. Dr. Cohen was obliged to exercise his independent medical judgment, of course, but he was not obliged, for example, to recapitulate Dr. Sabra's opinion that someone with Mr. Yantsides's injury and test results would have recovered from post-concussion syndrome within three to six months.

B. Dr. Ferrell's Opinion

1. *Dr. Ferrell's diagnosis of "rule out cognitive disorder not otherwise specified."*

Mr. Yantsides argues that Dr. Ferrell's opinion is inconclusive because his diagnoses include "rule out cognitive disorder not otherwise specified." Relatedly, Mr. Yantsides observes that at the time of their examinations, the panelists did not have the benefit of neuropsychological testing (subsequently performed in 2023), which, Mr. Yantsides says, may have assisted Dr. Ferrell in diagnosing a cognitive disorder. These arguments miss the mark.

Dr. Ferrell's narrative reflects that he was aware that neuro-psychological testing had not yet been performed. If Dr. Ferrell believed it would have assisted his disability determination, he could have requested that such testing be performed (at the expense of PERAC).

Moreover, "[w]hether 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." *Wayne W. v. Middlesex County Ret. Sys.*, CR-21-0359, 2023 WL 5774616, at *4 (Div. Admin. L. App. Sept. 1, 2023). After all, diagnoses are not driven solely by a patient's functional limitations, but take into account other considerations, such as etiology. Dr. Ferrell's negative certification reflects his medical determination that he could render an opinion on disability, notwithstanding the fact that he could not rule out a cognitive disorder. Mr. Yantsides provides no basis for concluding that such a determination was "plainly wrong."

2. *The fact that Dr. Ferrell’s narrative does not include an assessment of “risk of re-injury.”*

Mr. Yantsides also contends that Dr. Farrell’s certification is flawed because his narrative does not comply with the following instructions on the certification form:

Please consider the following before responding to Question #1. This should be discussed in detail in your narrative. Risk of Re-injury: even if a member is physically capable of performing all the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk of serious harm to the member or third parties. This risk of reinjury has to be reasonably expected to involve substantial harm.

Dr. Ferrell’s narrative does not expressly address the issue, but the Contributory Retirement Appeal Board has observed that an opinion need not do so if it reflects the panelist’s consideration of the applicant’s work duties in light of his or her medical conditions. *Handy v. Boston Ret. Bd.*, CR-10-205, at *2 (Contrib. Ret. App. Bd. April 13, 2015). Dr. Ferrell’s narrative states that he reviewed Mr. Yantsides’s job description. And it notes that Mr. Yantsides had witnessed and personally experienced prior violent episodes at his workplace, thus evincing Dr. Ferrell’s understanding that Mr. Yantsides could potentially witness or even suffer physical aggression if he returned to his job. That being the case, Dr. Ferrell’s negative certification as to Mr. Yantsides’s disability “necessarily comprises a conclusion that [he] can safely perform [his] duties without an unreasonable risk of harm.” *Handy, supra*.

For the foregoing reasons, the Board’s decision is affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole, Esq.
Administrative Magistrate

Dated: January 30, 2026