

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

KULDIP SHERGILL (DEC.), et al., *Applicants*

vs.

**DEPT. OF DEVELOPMENTAL SERVICES;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ11238147
Sacramento District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report and Recommendation and Opinion on Decision, both of which we adopt and incorporate, we will deny reconsideration.

I.

Former Labor Code¹ section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

(a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

¹ All further statutory references are to the Labor Code unless otherwise noted.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on August 14, 2025, and 60 days from the date of transmission is October 13, 2025. This decision is issued by or on October 13, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on August 14, 2025, and the case was transmitted to the Appeals Board on August 14, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on August 14, 2025.

II.

The Qualified Medical Evaluator (QME) in psychology, Dr. Sylvia Shirikian, Psy.D., was qualified to address decedent’s alcoholism. The Labor Code requires that a psychologist meet one of the following requirements to be a QME in psychology:

(A) Is board certified in clinical psychology by a board recognized by the administrative director.

(B) Holds a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, from a university or professional school recognized by the administrative director and has not less than five years’ postdoctoral experience in the diagnosis and treatment of emotional and mental disorders.

(C) Has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders, and has served as an agreed medical evaluator on eight or more occasions prior to January 1, 1990.

(Lab. Code § 139.2(b)(5)(A)-(C).)

Further, the QME "shall address all contested medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee's appointment with the medical evaluator that are issues within the evaluator's scope of practice and areas of clinical competence." (Cal. Code Regs., tit. 8, § 35.5(c)(1).) The QME has an obligation to advise the parties in writing if any of the disputed medical issues are outside of the QME's scope of practice and area of clinical competency so that the parties can request an additional evaluation in another specialty. (Cal. Code Regs., tit. 8, § 35.5(d).) A party can also make a request to the Medical Director that a replacement panel in a different specialty be selected pursuant to AD Rule 31.5(a)(10).

The parties stipulated that the record required further development and required a medical-legal evaluation to develop the record in the specialty of psychology. Therefore, the WCJ ordered that the Medical Director issue a panel list of QMEs in psychology. (Finding and Order re: Additional QME Panel [8 CCR 32.6], dated 9/15/21. p. 1.) Dr. Shirikian was selected as the QME in psychology from panel 2760020 and provided two reports (Def. Ex. A, Report of QME Sylvia Shirikian, dated 8/2/23; Def. Ex. B, Report of QME Sylvia Shirikian, dated 12/4/22) and was deposed twice in this matter. (Jt. Ex. C, Deposition Transcript of QME Sylvia Shirikin, dated 5/3/23; Jt. Ex. D, Deposition Transcript of QME Sylvia Shirikian, dated 9/13/23.) Defendant reviewed Dr. Shirikian's curriculum vitae during the first deposition on May 3, 2023. (Jt. Ex. C, pp. 7, 9-10.) At the first deposition, Dr. Shirikian stated that any licensed clinical psychologist would be able to diagnose a substance abuse condition. (Jt. Ex. C, pp. 23-24.)

Dr. Shirikian was on a panel provided by the Medical Director and therefore must have met the qualifications in section 139.2(b)(5) to act as the QME in psychology in this case. Dr. Shirikian stated in her deposition that she was able to diagnose a substance abuse condition. Applicant had an opportunity earlier in the case to request a QME in a different specialty and did not file such a request. Therefore, Dr. Shirikian remains as a qualified QME in psychology in this case.

As stated by the WCJ in her Report, Dr. Shirikian's opinion reveals there was a lack of a causal link demonstrating that the stress of decedent's employment caused him to have a

psychiatric condition and/or to use alcohol to manage the stress from his employment. Applicant could have shown this causal link through evidence other than the reports and testimony of Dr. Shirikian but failed to do so. However, without any other evidence of such link between decedent's employment and stress, applicant did not meet the burden to show that decedent's injury was AOE/COE. Therefore, the petition for reconsideration is denied.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR



/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 13, 2025

**SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT
THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.**

**JASPREET SHERGILL
JIVENJIT SINGH SHERGILL
NIHAL SINGH SHERGILL
ARMAAN SINGH SHERGILL
LAW OFFICE OF JESSE L. ALEXANDER III
STATE COMPENSATION INSURANCE FUND**

JMR/abs

I certify that I affixed the official seal of
the Workers' Compensation Appeals
Board to this original decision on this date.
KL

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION

INTRODUCTION

1. Order issued: 7/10/2025
2. Identity of Petitioner: Applicant
3. Verification: The petition is verified
4. Timeliness: The petition is timely
5. Date Petition for Reconsideration filed: 8/4/2025
6. Petitioners alleges: that the PQME is not substantial medical evidence because she lacks the expertise to form opinion on causation.

Applicant Jaspreet Shergill alleges an industrial injury to her husband Kuldip Singh Shergill (employee, deceased) during the cumulative trauma period of October 15, 2016 through October 15, 2017. She alleges that Mr. Shergill sustained injury to his psych, heart and alcohol disorder which resulted in his death. Defendant denied the injury as non-industrial. The parties proceeded to trial on the issue of AOE/COE on 5/20/2025. A Findings and Order issued 7/10/2025 finding that Mr. Shergill's death was nonindustrial; applicant appeals this decision.

The parties utilized Dr. Shirikian as the PQME to address the psychiatric portion of the employee's injury and Dr. Leonard as the PQME to address the internal components of the injury. Dr. Leonard opined that there were no direct industrial causes that led applicant's death, however applicant's alcoholism played a contributing role. Dr. Shirikian opined that there was no evidence of an industrially related psychiatric condition, stating that the reasons why applicant became an alcoholic are unknown.

The Petition for Reconsideration argues that Dr. Shirikian was not qualified to opine on the factors that caused Mr. Shergill's alcohol abuse. First and foremost, it is applicant's theory that work stress (psychiatric injury) caused applicant's alcohol abuse disorder. Dr. Shirikian, as a psychiatric PQME Dr. Shirikian is qualified to opine on the causation of stress and/or mental health disorders. Dr. Shirikian's reporting reveals that there is a lack of evidence that applicant experienced any industrially related issues at all. In the report applicant's wife stated:

"[Mr. Shergill] loved his job. He was very passionate about it." She knows he worked on multiple cases simultaneously and frequently worked in the evening from home, but generally did not discuss his work. ...

"When he had kid cases, it was very hard for him. I don't know what he dealt with mentally. His drinking started to be a little more but he didn't discuss it with me."...

In the final year of his life, Mr. Shergill's alcohol use increased significantly. He also began smoking cigarettes. Ms. Shergill stated. "That year, right before he passed, he didn't care anymore. I didn't know what was happening. Marriage wise, we were fine... I didn't know. *He didn't talk about it.* I didn't know how I could help."

(Defense Exhibit A p.4)

There may have been underlying mental health symptoms he hoped to self-medicate with the use of alcohol, however he never reported any to his wife, family, friends, or medical providers. ... There is no objective evidence to support an industrially related psychological injury.

(Defense Exhibit A p. 10-11) She confirmed her finding of there being no evidence of industrial factors in her deposition:

There's no evidence to mental health symptoms. So if -- if -- if we're trying to determine alcoholism related to -- as a coping mechanism or self-medication, is commonly used, then there would have to be mental health symptoms that he would be attempting to quote, unquote, medicate with the alcohol.

And there's no evidence to that. There's no medical record to it. His wife didn't speak of it. There are certain things like the hypervigilance. However, that doesn't necessarily equal a diagnosis. There just is not enough evidence to indicate alcohol was used to cope with or deal with mental health symptomology. Some people just use alcohol to use alcohol. People don't have comorbid diagnoses. There's no evidence of a comorbid mental health diagnosis.

(Joint Ex D pp. 107-108 lines 20-25;1-11). Hence, even if Dr. Shirikian is not qualified to discuss causation of applicant's alcohol abuse disorder (which is not this court's findings and opinion); applicant failed to establish any industrial psychiatric issues which would tie applicant's alcohol use to his employment.

It is noted that Jaspreet Shergill (wife) testified that Mr. Shergill's stress from work contributed to his alcohol usage. (MOH and Summary of Evidence p. 5 lines 17-18) but there is no evidence that applicant was stressed from his employment. When asked if she "ever got a sense that her husband was stressed at work "she answered "he did not talk much and they were busy with life... ". (MOH and Summar of Evidence p.5 lines 2-3). Observing the record as a whole, applicant did not present evidence of work stress.

Applicant specifically argues that Dr. Shirikian is not qualified to opine on applicant's alcohol abuse disorder. Dr. Shirikian testified at length regarding this issue. She provided the following testimony regarding her qualifications:

My training with law enforcement began in 2010, and just through clinical practice, I had several first responders come through my practice and felt I needed to get more education on the topic and so started pursuing continuing education on it, was very interested in it, and pursued it as a specialty and later became part of the West Coast Trauma Retreat in Northern California, assisting with first responder treatments in an intensive outpatient setting and was part of the Santa Rosa Hostage Negotiation Santa Rosa Police Department Hostage Negotiation Team for a short time, got to know some officers on that department,

furthered my training in trauma, specifically with law enforcement but also including other first responders, fire, EMT. And now in my private practice, I see mostly law enforcement officers of all kinds. It is part of practice. It is no insurance, so a lot of the people that I see choose to come through my practice instead of going through their insurance for employment purposes.

(Joint Exhibit C p. 10-11, lines 13-25, 1-7). She stated that she did not specialize in alcohol abuse disorders. She explained however that she was able to provide a diagnosis; she clarifies:

Yes. So there are psychologists who specialize in the treatment of alcohol or substance abuse disorders. I do not specialize in the treatment of alcohol and substance abuse disorders. However, all clinical psychologists are trained in the diagnostics of substance abuse and not just substance abuse, anything that's in the diagnostic manual. A key role in what we do is diagnosis.

She is then questioned if she can opine on the causation of applicant's alcohol disorder. The deposition continues as follows:

Q: ...If we were to ask what was the cause or contributing factor to Mr. Shergill's alcohol abuse disorder, who would be appropriate for us to ask? What type of professional or subprofessional would be appropriate for us to ask?

A. A clinical psychologist could answer that question. It's difficult when you are attempting to understand the causes and contributing factors unfortunately of someone who's deceased and unable to respond to those questions themselves and when there's no history of mental health treatment.

Q. At least in regards to someone with the sub-specialty, say, clinical psychologist, would that be just any clinical psychologist or clinical psychologist who has some experience and/or specialty or training in treating alcohol abuse disorders?

A. Well, you're not doing treatment so you don't need somebody that specializes in that. It's diagnostic, so any clinical—licensed clinical psychologist is able to diagnose a substance abuse condition.

Q: Forgive me if I'm not specifying this as well as I like. I'm not really so much focusing so much for the purpose of this question regarding the diagnosis. I'm more focusing regarding the *cause or contributing factors* to the diagnosis. Who will we ask for that?

A: *It's the same response.* ... (emphasis added)

(Joint Ex. C pp. 23-24 lines 5-25, 1-8). Dr. Shirikian found no evidence of work stress. The record contains no evidence of work stress. Dr. Shirikian is qualified to provide opinions on the different stressors and psychological issues and their causative factors. Dr. Shirikian formed an opinion based upon the limited evidence presented. The primary hindrance in this case is the unavailability of Mr. Shergill's thoughts and experiences that predated his death, not Dr. Shirikian's training and education. Dr. Shirikian's reporting is substantial evidence.

Petitioner also filed the reconsideration based upon the court's finding that applicant is not entitled to the heart presumption as found in Labor Code §3212.10. Labor Code 3212.10 pertains to peace officers as defined in Section 830.5 of the Penal Code. As noted in the Opinion on

Decision Penal Code Section 830.5 does not pertain to employees of the Department of Developmental Services and thus applicant is not a covered employee under the statute. The employee must be employed by a listed agency. *California Horse Racing Board v. WCAB (Snezek)* (2007) CCC 903. Applicant lists no authority that Labor Code §3212.10 pertains to all peace officers.

RECOMMENDATION

It is recommended that the Petition for Reconsideration be denied.

NOTICE OF TRANSMISSION:

Pursuant to Labor Code, Section 5909, the parties and the appeals board are hereby notified that this matter has been transmitted to the appeals board on date set out below.

DATE: August 14, 2025

Darcy Kosta
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

OPINION ON DECISION

Applicant Jaspreet Shergill alleges an industrial injury to her husband Kuldip Singh Shergill (employee, deceased) during the cumulative trauma period of October 15, 2016 through October 15, 2017. She alleges that Mr. Shergill sustained injury to his psych, heart and alcohol disorder which resulted in his death. Defendant denied the injury as non-industrial.

The parties utilized Dr. Shirikian as the PQME to address the psychiatric portion of the employee's injury and Dr. Leonard as the PQME to address the internal components of the injury. Dr. Leonard opined that there were no direct industrial causes that led applicant's death, however applicant's alcoholism played a contributing role. Dr. Shirikian opined that there was no evidence of an industrially related psychiatric condition, stating that the reasons why applicant became an alcoholic are unknown. Applicant argues that Dr. Shirikian's reporting is not substantial medical evidence, in part because Dr. Shirikian is not qualified to opine on causation for alcohol related disorders.

Dr. Leonard issued a report dated 8/5/2019 (Exhibit A). The report gives a history that Mr. Shergill was hired by defendant in 2013. According to the report applicant suffered from a genetic metabolic syndrome of hypertriglyceridemia which along with alcoholic intake just before the time of his death was the cause of his acute pancreatitis which ultimately lead to multiorgan failure. Dr. Leonard was deposed on 12/9/2019. He specified that applicant's pancreatitis caused acute respiratory distress (shock lung) which then caused cardia arrest. (Joint EX B). He confirmed that applicant's alcohol intake and hypertriglyceridemia caused the pancreatitis. In the depo Dr. Leonard is asked where he would send Mr. Shergill, had he been his patient, if he suspected a drinking problem:

Q: Where would you send him for help?

A: Well, there's so many places to go. Probably to some psychologist first.

Q. Uh-huh

A. But the treatment, my experience is you got to go to AA

(Joint Ex. B. p. 32 lines 13-18)

Q: Doctor, what other specialties do you think would be beneficial to determining or attempting to measure how stressful his occupation was to him or in general?

A: Well, it wouldn't be the internist, which I am, it would be a psychologist of some kind.

(Joint Ex B. p.51 lines 11-17).

Applicant was interviewed by Dr. Shirikian on 12/4/2022. Dr. Shirikian's initial reporting took the following history from Ms. Shergill:

"[Mr. Shergill] loved his job. He was very passionate about it." She knows he worked on multiple cases simultaneously and frequently worked in the evening from home, but generally did not discuss his work. ...

"When he had kid cases, it was very hard for him. I don't know what he dealt with mentally. His drinking started to be a little more but he didn't discuss it with me."...

In the final year of his life, Mr. Shergill's alcohol use increased significantly. He also began smoking cigarettes. Ms. Shergill stated. "That year, right before he passed, he didn't care

anymore. I didn't know what was happening. Marriage wise, we were fine... I didn't know. He didn't talk about it. I didn't know how I could help.

(Defense Exhibit A p. 4)

After his death, Ms. Shergill discovered her husband was drinking during his lunch break at work. She saw daily charges to a bar near his office and called, they confirmed he would have lunch and two drinks there daily. One of his friends also found two bottles of liquor in the trunk of his car when going through his affects. It appears Mr. Shergill made attempts to conceal some of his drinking before his death and that his consumption was even greater than his wife and family suspected.

(Defense Exhibit A p.6) Dr. Shirikian diagnosed Mr. Shergill with Alcohol Abuse Disorder. The report notes:

It is clear Mr. Shergill struggled with alcohol addiction. He made efforts to minimize and deny the frequency and quantity of use with family and medical providers. Mr. Shergill hid the extent of his addiction from his wife, family, and likely, his employer. Medical records reveal several alcohol related injuries and at least one altercation. *The reason for his alcohol use is unknown.* There may have been underlying mental health symptoms he hoped to self-medicate with the use of alcohol, however he never reported any to his wife, family, friends, or medical providers. It is clear however, that Mr. Shergill's alcohol consumption did not sharply increase all at once as his wife would like to believe. His problematic alcohol consumption began many years before his death and likely, years before his employment as an investigator.

Thus, there is no objective evidence to support an industrially related psychological injury.

(emphasis added)(Defense Ex A p. 10-11)

The parties deposed Dr. Shirikian on 5/3/2023. A discussion pertaining to her CV revealed that she specializes in treating law enforcement personnel. Specifically she testified:

My training with law enforcement began in 2010, and just through clinical practice, I had several first responders come through my practice and felt I needed to get more education on the topic and so started pursuing continuing education on it, was very interested in it, and pursued it as a specialty and later became part of the West Coast Trauma Retreat in Northern California, assisting with first responder treatments in an intensive outpatient setting and was part of the Santa Rosa Hostage Negotiation Santa Rosa Police Department Hostage Negotiation Team for a short time, got to know some officers on that department, furthered my training in trauma, specifically with law enforcement but also including other first responders, fire, EMT. And now in my private practice, I see mostly law enforcement officers of all kinds. It is part of practice. It is no insurance, so a lot of the people that I see choose to come through my practice instead of going through their insurance for employment purposes.

(Joint Exhibit C p. 10-11, lines 13-25, 1-7). She stated that she did not specialize in alcohol abuse disorders. She explained however that she was able to provide a diagnosis; she clarifies:

Yes. So there are psychologists who specialize in the treatment of alcohol or substance abuse disorders. I do not specialize in the treatment of alcohol and substance abuse disorders. However, all clinical psychologists are trained in the diagnostics of substance abuse and not just substance abuse, anything that's in the diagnostic manual. A key role in what we do is diagnosis.

She is then questioned if she can opine on the causation of applicant's alcohol disorder. The deposition continues as follows:

Q: ...If we were to ask what was the cause or contributing factor to Mr. Shergill's alcohol abuse disorder, who would be appropriate for us to ask? What type of professional or subprofessional would be appropriate for us to ask?

A. A clinical psychologist could answer that question. It's difficult when you are attempting to understand the causes and contributing factors unfortunately of someone who's deceased and unable to respond to those questions themselves and when there's no history of mental health treatment.

Q. At least in regards to someone with the sub-specialty, say, clinical psychologist, would that be just any clinical psychologist or clinical psychologist who has some experience and/or specialty or training in treating alcohol abuse disorders?

A. Well, you're not doing treatment so you don't need somebody that specializes in that. It's diagnostic, so any clinical—licensed clinical psychologist is able to diagnose a substance abuse condition.

Q: Forgive me if I'm not specifying this as well as I like. I'm not really so much focusing so much for the purpose of this question regarding the diagnosis. I'm more focusing regarding the cause or contributing factors to the diagnosis. Who will we ask for that?

A: It's the same response. Again, you're not treating; you're diagnosing. Diagnostic criteria are pretty cut and dry. As so when we determine a diagnosis, we base that fully on the DSM.

(Joint Ex. C pp. 23-24 lines 5-25, 1-8). Dr. Shirikian was able to identify contributing factors that may cause alcoholism such as genetics, mood disorders, stress, trauma and anxiety disorders. Dr. Shirikian provided a supplemental report wherein she reviewed applicant's personnel file. The file contained employee evaluation reports wherein applicant was generally given positive evaluations. The doctor also provided a general discussion of literature documenting first responders, PTSD and alcohol abuse. Dr. Shirikian notes:

In the field of industrial and organizational psychology has noted behavioral markers in the workplace that may represent occupational stress and include absenteeism, tardiness, mood swings, emotional and physical withdrawal, loss of motivation or commitment to the position, and increased emotional reactions in professional settings.

Provided personnel records were minimal with no relevant documentation between the 2014 performance evaluation and the time of Mr. Shergill's death with the exception of a

Conflict of Interest form dated December 2015. From the available records, Mr. Shergill did not present with any of the workplace markers indicated above. Evaluations were positive and complimentary. He was awarded a commendation and noted to be well respected and liked by his peers. No disciplinary actions were found in the records.

(Defense Ex B p. 7) Dr. Shirikian did not change opinion and continued to find that there was no evidence of an industrially related psychiatric injury that may have led to applicant's alcohol abuse. Dr. Shirikian is deposed for a second time on 9/13/2023. Here she testifies to non-industrial factors which she believes may have contributed to his excessive alcohol use: injuries sustained at alternative employment, previous trauma associated with a car-jacking, infertility issues, and marital issues; however she stressed that she did not have enough information to opine how much they contributed to his alcohol abuse. (Joint Ex D. pp 104-106) Dr. Shirikian further explained that there was no information if Mr. Shergill's employment with defendant contributed to his alcohol abuse. She specifically stated:

There's no evidence to mental health symptoms. So if -- if -- if we're trying to determine alcoholism related to -- as a coping mechanism or self-medication, is commonly used, then there would have to be mental health symptoms that he would be attempting to quote, unquote, medicate with the alcohol.

And there's no evidence to that. There's no medical record to it. His wife didn't speak of it. There are certain things like the hypervigilance. However, that doesn't necessarily equal a diagnosis. There just is not enough evidence to indicate alcohol was used to cope with or deal with mental health symptomology. Some people just use alcohol to use alcohol. People don't have comorbid diagnoses. There's no evidence of a comorbid mental health diagnosis.

(Joint Ex D pp. 107-108 lines 20-25;1-11).

As noted in applicant's Trial Brief, applicant argues that there is good cause for the court to order an additional panel pursuant to 8 CCR §31.7(b). Applicant argues that Dr. Shirikian, a psychologist cannot adequately address causation for applicant's alcohol abuse. However, as noted above when questioned what type of doctor could address the causation aspects of alcohol abuse Dr. Shirikian stated that she was able to do so and obtained the training to do so when she obtained her degree. The problems with analyzing the causative factor of applicant's disorder was not due to Dr. Shirikian's education or training but due to the lack of evidence as Mr. Shergill is deceased. In addition, 8 CRR §31.7 addresses when a party requests an additional PQME in a different specialty; applicant is requesting the same specialty (psychology) that has specific expertise in alcohol disorders. It is unknown how applicant would obtain such a list. As applicant is requesting the same specialty, it would be considered a replacement PQME and addressed under 8CCR §31.5. This section allows for 16 specific reasons a party may obtain a replacement PQME, none of which pertain to the matter at hand. It is therefore found that there is no good cause for either a replacement or additional PQME.

Both Dr. Leonard and Dr. Shirikian provided substantial medical evidence. Dr. Leonard opined that applicant's alcohol consumption was a causal factor in the development of pancreatitis which resulted in applicant's death. He did not find any direct industrial causal factors. Dr. Shirikian found that there was no evidence that applicant's alcohol abuse was related to his

employment. Essentially, this was a case where the decedent appeared to be a private, stoic individual who did not discuss his difficulties with coworkers or family. The WCJ does not believe that this is a case where the record could be developed as the parties did a respectable job of gathering what evidence they could; rather it is a case where the evidence in existence is sparse.

Applicant also argued that Mr. Shergill was entitled to the heart presumption per Labor Code §3212.10. Labor Code §3212.10 allows for the heart presumption for peace officers for the Department of Corrections, the Department of Youth Authority or a peace officer as defined in §830.5 of the Penal Code. Applicant argues that Mr. Shergill was a peace officer as defined in Penal Code §830.5 and was employed by a local agency. Penal Code §830.5 states:

The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

- (a) A parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Juvenile Parole Board. ...
- (b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of State Hospitals or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

Mr. Shergill was employed with the Department of Developmental Services which is not discussed in the Penal Code. It is therefore found that applicant is not entitled to the heart presumption as found in Labor Code §3212.10. Based upon the above analysis it is found that Mr. Shergill's death did not arise out of his employment

The parties also submitted the issue of if the court has jurisdiction to award the special death benefit. Government Code §21530 et seq. provides a special death benefit for dependents of certain members who active members of PERS at the time of their death. The WCAB has limited jurisdiction under these government codes and is specified to solely make findings on if the death of a member was industrially related; this court cannot "award" the special death benefit. The

determination of if the employee's death was industrial is a separate proceeding from the claim for workers compensation benefits and must be filed separately.

DATE: July 10, 2025

Darcy Kosta
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE