WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

SHARON CALLANDER, ***Applicant***

vs.

OAKLAND HEALTHCARE & WELLNESS CENTER, LLC; XL SPECIALTY INSURANCE, ***Defendants***

Adjudication Number: ADJ17886767
Oakland District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Defendant seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Findings and Orders of December 9, 2024, wherein it was found that while employed on March 16, 2023 as an activity assistant, applicant sustained industrial injury to her right wrist and right hand causing the need for further medical treatment to those body parts. Applicant also claims injury to the head, neck, right arm, right shoulder, right hip and lumbar spine as a result of the March 16, 2023 incident, but the issue of injury to those body parts was deferred.

Defendant contends that the WCJ erred in finding industrial injury arguing that applicant was not in the course of employment at the time of her injury. We have received an Answer and the WCJ has filed a Report and Recommendation on Petition for Reconsideration (Report).

For the reasons stated below and for the reasons stated in the WCJ's Report, which we adopt, incorporate and quote below, we will affirm the substance of the WCJ's decision. However, in order to add clarity to the decision, we will amend Finding No. 4 to state that any issues other than industrial injury to the right wrist and right hand (already found in Finding No. 1) are deferred with jurisdiction reserved.

Preliminarily, we note that former Labor Code 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, Labor Code 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)
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> (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.
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> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under Labor Code 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 February 14, 2025 and 60 days from the date of transmission is April 15, 2025. This decision is issued by or on April 15, 2025, so we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code 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. Labor Code 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 February 14, 2025, and the case was transmitted to the Appeals Board on February 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on February 14, 2025.

Turning to the merits, we will affirm the finding of injury in the course of employment for the reasons stated by the WCJ in the Report, the relevant portions of which we quote below. We note that defendant's Petition did not comply with Appeals Board Rule 10945 which requires evidentiary statements to be supported by specific references to the record and for references to trial testimony to include citations to specific pages and line numbers of testimony. (Cal. Code Regs., tit. 8, § 10945, subd. (b).) By way of example, defendant writes in its Petition that "applicant showed up, uninvited to speak with her then activity director regarding additional hours or additional work since she had not been working since March 08, 2023." (Petition for Reconsideration at p. 3.) There is no citation to the evidentiary record. To the contrary defense witness Rawena Israel testified that she did not know why applicant was looking for her supervisor Ms. Benitz (Minutes of Hearing and Summary of Evidence of April 29, 2024 trial at p. 13) and that it was her understanding on the date of injury that applicant was working on the day she was injured (Minutes of Hearing and Summary of Evidence of April 29, 2024 trial at p. 9).

As noted by the WCJ in his Opinion on Decision and in his Report, regardless of whether applicant was scheduled to work on the day of injury, applicant was injured performing the activities she would have been performing had she been scheduled to work and was thus conferring a benefit on the employer. Witness Yordanos Ghebresakik provided unrebutted testimony that typically two activity coordinators would work with the residents in the activity room and on that day, it was the witness and the applicant. (Minutes of Hearing and Summary of Evidence of July 22, 2014 hearing at p. 10.) The WCJ properly cited *Wright v. Beverly Fabrics* (2002) 95 Cal.App.4th 346 [67 Cal.Comp.Cases 51] where the Court of Appeal found that applicant was in the course of employment after being injured while conferring a benefit on the employer on an unscheduled day of work. In *Wright*, the injured worker went to the worksite on a personal errand to sign a condolence card for a co-worker on a day she was not scheduled to work and was injured while she tried to hold up a collapsing shelf. As noted by the WCJ in the Report, the defendant's Petition does not even attempt to address the *Wright* case or present any competing legal authority.

We also note that a WCJ's credibility determinations are "entitled to great weight because of the [WCJ's] 'opportunity to observe the demeanor of the witnesses and weigh their statements in connection with their manner on the stand….' [Citation.]" (*Garza v. Workmen's Comp. App. Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500].)

We thus grant the Petition only to simplify and clarify Finding No. 4 and affirm the substance of the WCJ's decision. Since we find that the WCJ correctly found that applicant was injured in the course of employment we need not consider his alternative request to return the case to him on the issue of presumptive injury pursuant to Labor Code section 5402(b). The WCJ's Report follows (footnotes omitted):

INTRODUCTION

> By a timely and verified Petition for Reconsideration (Petition) dated December 27, 2024, but not formally e-filed until December 30, 2024, defendant through defense counsel, Sammy Rabieh, seeks reconsideration of the Findings & Orders with Opinion on Decision (F&O) dated and served on December 9, 2024. That F&O, following a 3-day trial, found injury AOE/COE to the Applicant's right wrist and right hand, with a related need for further medical treatment, and ordered the parties to communicate and attempt to informally adjust any additional benefits due, and if necessary, pursue additional discovery with respect to alleged injuries to additional body parts
>
> I apologize for the delay in submitting this Report & Recommendation. I note the amendment of Labor Code section 5909, effective as of July 2, 2024, which indicates, "(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."
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> Defendant's Petition contends generally that: 1. the Board acted without or in excess of its powers; 2. that the evidence does not support the findings of fact, and; 3. that the findings of fact do not support the award. (Petition at p. 2.) More specifically, it argues: the Applicant was not a credible witness at trial and that her alleged injuries did not arise out of and/or in the course of her employment, on the alleged basis that she was not scheduled to work on the day in question, and did not perform any work on behalf of the employer as she claims/testified. (***Id.*** at pp. 4-7.) It also argues that the trial testimony of Applicant's co-worker, Yordanos Ghebresadik, was not credible, and should not have been considered and/or relied upon (***Id.*** at pp. 7-8), and additionally that the testimony of employer witness, Tina Gales Torres, is credible and rebuts the testimony of the Applicant and Ms. Ghebresadik. (***Id.*** at pp. 8-9.) It finally argues that contrary to the court's finding, that the Applicant's activities on the day in question did not confer any benefit to the employer. (***Id.*** at pp. 10-11.)
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> Applicant's attorney, Joanne Helvig, filed an Answer in response to defendant's Petition dated January 14, 2025. That Answer alleges the Findings of Fact are supported by substantial evidence in the record, and that injury AOE/COE should be presumed because the denial was untimely, and was not based on newly discovered evidence that was unavailable at the time of the initial denial.

(***Id.*** at pp. 5-7.) It argues the judge correctly applied the law to the facts (***Id.*** at pp. 8-9), and that defendant's failure to conduct a full and fair investigation before denying the claim, along with alleged bad faith actions and tactics warrants penalties and sanctions. (***Id.*** at pp. 9-10.) Finally, it asserts that the Petition makes material misrepresentations of Yordanos Ghebresadik's trial testimony. (***Id.*** at p. 10.)

BACKGROUND

The case involves a denied alleged specific claim of injury dating from March 16, 2023, to Applicant's head, neck, right hand, right wrist, right arm, right shoulder, right hip, and lumbar spine, while employed by Oakland Healthcare & Wellness Center, as an activity assistant. (MOH/SOE, 4/29/24, Stipulation No. 1 at p. 2.) The claim was denied on the basis the injury was sustained outside the course and scope of his employment the basis the Applicant allegedly was not scheduled to work on the day she sustained the alleged injuries at the employer's facility. (Joint 101.) The case was tried over the course of 3 days.

The first witness to testify was Rowena Israel, the employer's HR person at the facility whose formal job title was Director of Staff Development. She was called adversely by Applicant's attorney. (MOH/SOE Day 1, 4/29/24 at pp. 6-15.) She also testified later in rebuttal on Day 3 of trial. (MOH/SOE Day 3, 4/29/24 at pp. 10-18.) On Day 1, she testified in relevant part as follows. She has worked for this employer for six years and hires staff and handles all the related paperwork. (Day 1, at p. 6.) The facility is a skilled nursing home with 97 beds. (***Id.*** at p. 7.) She was working on March 16, 2023, when the Applicant came into her office and reported a work related injury, and she provided the Applicant with appropriate forms and helped her to fill them out, including the DWC-1, which was part of her job. (***Id.***) Earlier that morning, the Applicant had come in looking for her supervisor, activity director, Ms. Benitz, around 10:00 to 11:00 AM, but did not say what she wanted or why. (***Id.***) She and returned at about 2:30 PM or 3:00 PM to report the injury. (***Id.***) She does not know if Ms. Benitz was present in the facility that morning, but she saw her there that afternoon. (***Id.***) At approximately 2:15 PM, the Applicant came to her office and reported she had fallen during an activity with residents, landing on her right arm, right side, and hip. (***Id.*** at p. 8.)

When questioned about a hiring document, the Employee Information Sheet dated March 6, 2023 (Joint 105), she notes that the F/T box is checked, but explains she initially checked it in error and later crossed it out and initialed the cross out and then checked the On-Call box. (***Id.***) She does not know why the form is not signed by the Applicant. (***Id.***) However, page 2, of that Exhibit, entitled Employee Voluntary Self-Identification From was signed by the Applicant and dated March 6, 2023. (Joint 105, at p. 2.) She was questioned about the Employee Job Application (Applicant's 5), which on its face references full time employment, but this is error as the Applicant was hired only

as an on-call employee, and she must not have corrected it. (***Id.***) It was her understanding that the Applicant was working on the day she was injured. (***Id.*** at p. 9.) However, she was not aware of the Applicant's specific schedule and did not know whether she was scheduled to work that day. (***Id.*** at pp. 9, 10, 11, 12, 13, 14.) Only the Applicant's supervisor, Elena Maria Benitz, would know her work schedule. (***Id.*** at p. 9.) She is questioned about Applicant's Exhibit 13, a completed report of injury, where it indicates the injury was witnessed by Tiana Gayles, RN. Tiana is also known as Tina and reportedly heard the Applicant fall from just outside the room, but did not see it herself. (***Id.***) She did not interview any other employees as potential witnesses, which include Yordanos Ghebresadik. (***Id.***) At the Applicant's request, and following the report of injury, she referred Ms. Callander to Concentra for medical treatment. (***Id.*** at pp. 10, 11.)

All employees are required to clock in and out of the facility, but the Applicant had not done so because she was a new employee and had not yet been provided with an ID card. (***Id.***) In that situation, the employee submits written Time Sheet Correction Forms with their hours that have to be signed and dated by both the employee and their supervisor, and submitted that same day. This is required before they are paid for those hours. (***Id.***) She is questioned about Joint Exhibit 103, which is a poor quality Time Correction Sheet for March 16, 2023, that indicates Applicant worked from 9:00 AM to 12:30 PM.3 (***Id.***) This form is incomplete because it is not signed by a supervisor and the handwriting is scribbled and not clear. (***Id.***) She testified the Applicant signed the Declination of Workers' Compensation Claim/Medical Treatment (Applicant's 10), with her left hand "because her right hand was in pain." (***Id.*** at p. 11.) The Applicant was hired as an on call employee, which means she did not have a set schedule or hours and would be called in as needed by her supervisor Ms. Benitz, usually but not always, with 12 hours' notice. (***Id.***) If the time clock has not been used, an employee has to complete and submit the Corrected Time Form and have it signed by their supervisor or they will not be paid for that day. (***Id.***) She estimates it took 90 minutes or so to complete the paperwork for the claim and they were probably done by 3:45 or 4:00 PM. (***Id.***)

On cross-examination by defense counsel, Rowena Israel testified that she completed the workers' comp. paperwork based on Applicant's account of what happened, which is that she had fallen while engaged in games with the residents. (MOH/SOE Day 1, 4/29/24 at p. 12.) She did not ask the Applicant if she was scheduled to work that day. (***Id.***) She knows and spoke with charge nurse Tina Torres that day, and it was her understanding that Tina did not see the fall firsthand, but that was standing near the door to the activity room and either heard the actual fall, or heard residents talking about the fall. (***Id.*** at pp. 13, 15.) With respect to the March 13, 2023 Time Correction Sheet (Joint 103), she did not sign this as the Applicant's supervisor, as that was not her job or role, and she does not recognize that signature as any particular supervisor. (***Id.*** at p.

15.) It was only the next day that Elena Maria Benitz told her that the Applicant was not scheduled to work that day. (***Id.***)

Applicant's co-worker, Yordanos Ghebresadik, testified on Day 2 as Applicant's witness through a Tigrinya interpreter, that she worked at the facility as an activity coordinator at this employer and facility up through approximately January 6, 2024, working with residents. (MOH/SOE Day 2 dated 7/22/24, at p. 8.) Her supervisor was Elena Maria Benitz, and she trained the Applicant when she started. She recalls that on the date in question, she was working with the Applicant in the activity room playing with residents using an exercise ball/balloon, when the Applicant fall, and she helped her get up. (***Id.***) She was a full time employee. (***Id.*** at p. 9.) She was never told by anyone that the Applicant was not scheduled to work that day and/or was not supposed to be there. (***Id.*** at p. 10.) She was not surprised that Ms. Callander was present. (***Id.***)

Nurse Tina Gales Torres testified on Day 2, having been called adversely by Applicant's attorney. (***Id.*** at pp. 14-18.) She used to work at Oakland Healthcare & Wellness for approximately 8-9 months, and her last day there was December 6, 2023. (***Id.*** at p. 15.) She was working on March 16, 2023, and was at the nurse's station which was across the hall from the activity room, when she "heard a thump" from the room, and she went over to investigate and saw a woman on the floor of the room, which had a number of people in it including residents and staff. (***Id.***) She approached the woman and asked if she was okay, the woman said she was fine and proceeded to get up, and she then left and went back to her nurse's station. (***Id.*** at pp. 15-16.) She does not recall seeing a wig that fell off the Applicant when she was in the room. (***Id.*** at p. 15.) She did not see the Applicant immediately before the fall. (***Id.***) She does not know if the Applicant was scheduled to work that day or not but she did report the fall to Rowena Israel. (***Id.***)

The Applicant testified on Day 2 and Day 3 of the trial. (MOH/SOE Day 2, 7/22/24 at pp. 18-22, and MOH/SOE Day 3, 8/29/24 at pp 2-10.) On March 16, 2023, she was in the activity room with Yordanos and the residents playing a game with a balloon, when she fell down backwards near the tables by the door when trying to retrieve the balloon. (***Id.*** at p. 19.) Yordanos and the nurse from next door came over, and asked if she was all right, and she said she was okay, but she was not herself. (***Id.***) She got up with Yordanos' help. (***Id.***) She does not know why the Corrected Time Sheet from March 16, 2023 (Joint 103) is not signed by a supervisor. (MOH/SOE Day 3 8/29/24 at p. 2.) When she went to the Concentra occupational clinic the next day, she saw Dr. Aundrea Wilson and reported what happened, specifically that she had injured her right and wrist, which had pain of 10/10 and had also suffered a contusion of her occipital scalp. (***Id.*** at p. 3.) She later received treatment at Concentra in the form of physical therapy and medication prescriptions. (***Id.***) The claim was later denied, and at that point she obtained treatment with Dr. Flores. (***Id.***)

DISCUSSION

There is no dispute that any Findings and Award and/or Findings and Orders must be supported by substantial evidence in light of the entire record. (Labor Code section 5952(d); *Escobedo v. Marshalls* (2005) (Appeals Board en banc) 70 Cal.Comp.Cases 604, 620; *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274, 281 [39 Cal.Comp.Cases 310, 314]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500, 503]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 635 [35 Cal.Comp.Cases 16, 22].) To be substantial evidence, expert medical opinion must be framed in terms of reasonable medical probability, be based on an accurate history and an examination, and must set forth the reasoning used to support the expert conclusions reached. (*E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten)* (2006) 145 Cal.App.4th 922, 928 [71 Cal.Comp.Cases 1687, 1691]; *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 620-621 (Appeals Board en banc).) "[A] medical opinion is not substantial evidence if it is based on facts no longer germane, on inadequate medical histories or examinations, on incorrect legal theories, or on surmise, speculation, conjecture, or guess. (Citations.)" (*Gatten, supra*, at p. 928.)

Defendant's Petition essentially boils down to the claims that the Applicant was not scheduled to work on the day in question and should not have been there, and that her trial testimony and that of her co-worker Yordanos Ghebresadik, that she was injured in the course of her employment, i.e., while doing her normal job duties of participating in activities with the elderly residents of the facility, was not credible and that accordingly, her activities that day could not have benefited the employer. It also disputes my finding that based on the credible evidence the Applicant was actually working in her usual and customary job and duties which benefitted her employer, regardless of whether she was scheduled to work, and that her injuries are therefore compensable.

Although the Petition asserts that Applicant was not acting in the course of her employment and did not perform any work for the employer (Petition at p. 2), these claims are contrary to my finding that she was which was based on the credible testimony of the Applicant (at least as to that issue), Ms. Ghebresadik, and Nurse Tina Torres. In my opinion, there is no direct or compelling evidence to rebut that finding. I concede, as noted in the Opinion on Decision at p. 10, that I found that contrary to Applicant's trial testimony, she was hired as an on call employee, and not as a full time employee, and that there is no independent evidence to support her claim she was scheduled to work on March 16, 2023. However, it does appear that she appeared that morning at the facility and seemingly after unsuccessfully looking for her supervisor, Elena Maria Benitz, that she began working a standard shift with her co-worker, Yordanos Ghebresadik, participating in recreational activities with the residents and providing them with drinks and snacks, which were her normal job duties. It is

not clear to me why, if she was not scheduled to work, that no manager directed her to leave or go home. I agree with the defendant that there are problems with the time sheet in question for March 16, 2023, and that the alleged signature of the supervisor for the morning hours (Joint 103), is questionable and may have been fabricated, and evidently was not submitted as required, which is why she was not paid for that day. However, as I noted in the Opinion on Decision at p. 10, that is not the end of the inquiry and because I found and continue to believe that the evidence supports the finding that the Applicant was actually working in her normal job at the time she was injured, providing a benefit for and to the employer in the process, it does not matter for purposes of injury AOE/COE that she was not scheduled to work that day.

As I noted in the Opinion on Decision at page 10, since I found injury AOE/COE, I did not address and/or make any findings on Applicant's claim that the denial of the claim was untimely, and/or that the alleged "new evidence" that Applicant was not scheduled to work that day was in fact new information and/or could not have been determined had there been a thorough investigation into the claim in the first 90 days it was made, because that issued was rendered moot. Should the Board grant reconsideration and rescind my finding of AOE/COE to the right hand and wrist, I would recommend the matter be remanded to the trial level for me to make findings on that issue.

The Petition also fails to address or explain how the case of *Wright v. Beverly Fabrics, Inc.* (2002) 95 Cal.App.4th 346, 67 Cal.Comp.Cases 51, 56, cited in the Opinion at p. 9, along with similar caselaw cited on page 11, rejects defendant's argument that even if the Applicant was not scheduled to work that day, that she could not have been injured AOE/COE, especially if she was providing a benefit to the employer at the time of injury. It appears that the Petition's only argument on this point is that there is no credible evidence that Applicant was working on the day in question, citing the testimony of Nurse Tina Torres. (***Id.*** at pp. 10-11), A review of the MOH/SOE from July 22, 2024, at pp. 14-18, summarizing her testimony, I believe belies the claims in the Petition that she testified definitively that she went into the activity room hourly on the day in question and only saw the Applicant the one time after hearing a fall, and that she was not and/or could not have been there before then. In fact, Nurse Torres, who was testifying more than a year after the injury date and months after she last worked for this employer, could barely remember the Applicant, which is likely because she appears to have worked there only 4 days total, if you include the date of injury. (***Id.*** at p. 15, lines 32.) Her actual testimony was that she would go into the activity room approximately once an hour for her job, and that she could not recall how many times she saw the Applicant in the room that particular day, aside from after the fall that she heard, although she could not definitively recall seeing her more than the one time. (***Id.*** at p. 17, lines 33-44.) She also could not recall seeing Yordanos more than the one time, stating she thinks so, but cannot be sure. (***Id.*** at pp. 41-44.) In short, this is not compelling testimony that leads me to conclude that both the Applicant and Ms. Ghebresadik were both lying

when they credibly testified that the Applicant was working that day in the room when she fell, and whose fall was heard and confirmed immediately thereafter by nurse Torres. Clearly, Applicant did fall in the activity room full of residents, as confirmed by Nurse Torres, and per the preponderance of the evidence, while leading activities with Ms. Ghebresadik. In my judgment, whether or not Ms. Torres recalls seeing a balloon on the floor is an incidental fact that does not change my assessment of the evidence and/or the relative credibility of the witnesses for fact-finding purposes.

Having reviewed the evidence in this case for the second time, I do not find any basis to change my prior opinions. Based on the evidence, even though I do not believe the Applicant was scheduled to work on March 16, 2023, I do believe the entirety of the credible evidence supports the finding that she was injured while working in her usual and customary job leading activities with the residents and her co-worker Ms. Ghebresadik, and while providing a service and benefit for the employer. Whether she was paid or not, in my view does not change the analysis for AOE/COE in light of cases like *Wright*, and related cases cited in the Opinion on Decision. Defendant has provided no caselaw or authority to the contrary and merely continues to assert the mantra if she was not scheduled to work, she could not have been injured AOE/COE. I do not find the testimony cited by Ms. Torres in the petition to be sufficient to rebut my finding that based on what I found to be the credible testimony of both the Applicant, Ms. Ghebresadik, and Ms. Torres' testimony with respect to the fall she heard that the Applicant was working in her usual and customary job at the time she fell and was injured.

In sum, I stand by my F&O and continue to believe that the Applicant has proven by the preponderance of the credible evidence that Applicant sustained injury AOE/COE, at least to her right hand and wrist, at the time she slipped and fell at the employer's facility on March 16, 2023, and that regardless of whether she was scheduled to work that day, she was in fact performing her usual and customary duties, i.e., participating in activities with the facilities' residents, at the time she fell and injured herself, and was providing a benefit and service on behalf of the employer, contrary to defendant's conclusory claims to the contrary.

For the foregoing reasons,

IT IS ORDERED that Defendant's Petition for Reconsideration of the Findings and Orders of December 9, 2024 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Orders of December 9, 2024 is **AMENDED** as follows:

FINDINGS OF FACT

1. Sharon Callander, age 63 on the date of injury, while employed on March 16, 2023, as an activity assistant in Oakland California by Oakland Healthcare & Wellness, sustained injury AOE/COE to her right wrist and right hand, and claims additional injuries to her head, neck, right arm, right shoulder, right hip, and lumbar spine.

2. At the time of the alleged injury, the employer was insured by XL Specialty Insurance, and its claims are currently administered by Intercare.

3. The claim is denied and no benefits have been paid to date.

4. All other issues other than industrial injury and need for medical treatment to the right wrist and right hand are deferred, with jurisdiction reserved.

5. There is a need for further medical treatment for the right wrist and right hand.

ORDERS

a. Although injury AOE/COE is found with respect to the right wrist and right hand, the medical records needs to be further developed with respect to the issue of additional claimed body parts in the form of a QME evaluation and report.

b. In light of these findings, aside from the claim of injury to additional body parts, the parties are ordered to communicate in an effort to attempt to informally resolve all remaining issues, including any/all claims to medical treatment and TTD. If that fails, either party can file a DOR on any unresolved and/or disputed issue.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PAUL F. KELLY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 15, 2025

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

SHARON CALLANDER
JOHN E. HILL
HIRSCHL MULLEN

DW/oo

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