



excision of the mass of her ganglion cyst and repair of the extensor tendon of the right long finger. The surgery was performed by Dr. Richard S. Bahner, an attending Board-certified orthopedic surgeon, and was authorized by the Office.

In July 2000, appellant returned to light-duty work on a full-time basis for the employing establishment. She performed clerical duties which she claimed caused pain in her right hand.

In a report dated July 21, 2000, Dr. Bahner stated that appellant's right extensor tendon of the long finger was gliding well with full motion and no evidence of further damage or adherence. He noted that he would expect that she would be able to work full-time duty but that she insisted that she had pain. Dr. Bahner noted, "I [a]m unable to explain her persistent complaints of pain and do not feel there is any underlying problem.

In a report dated November 8, 2000, Dr. Joel D. Krakauer, an attending Board-certified orthopedic surgeon, stated that there was some swelling of appellant's right longer finger and some irregularity of the extensor of the right long finger but noted that no distinct cyst was identified. In a report dated February 28, 2001, Dr. Krakauer diagnosed persistent pain in the right hand, status post ganglion tendon excision and indicated that appellant was totally disabled beginning November 8, 2000.<sup>1</sup>

Appellant last worked on March 11, 2001 and was terminated from the employing establishment effective July 12, 2002 due to unavailability of appropriate light-duty work. She received appropriate compensation for periods of disability.

In a report dated November 20, 2002, Dr. Noel B. Rogers, a Board-certified orthopedic surgeon and an Office referral physician, stated that he could not explain why appellant reported that her right hand pain prevented her from performing her work. Dr. Rogers indicated that she could work with restrictions.<sup>2</sup>

The Office requested that Dr. Krakauer provide an updated report regarding appellant's right hand condition. In a letter dated October 4, 2004, Dr. Krakauer stated that he could not make a determination regarding her condition as he had not seen her in a year. He had recommended a functional capacity evaluation in October 2004 to evaluate appellant's level of capacity. In a report dated November 22, 2005, Dr. Krakauer stated that on examination appellant exhibited no discrete areas of swelling and had normal sensibility in the right palmar aspect, but that she had multiple areas of tenderness over the dorsal aspect of the hand.

On December 2, 2005 the Office referred appellant to Dr. Donald D. Getz, a Board-certified orthopedic surgeon, for evaluation of her medical condition and ability to work.

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<sup>1</sup> The findings of January 25, 2001 magnetic resonance imaging scan testing revealed fluid surrounding the right flexor carpi-radialis consistent with a mild tenosynovitis.

<sup>2</sup> The Office terminated appellant's compensation effective August 9, 2003 on the grounds that she no longer had employment-related residuals, but it later vacated its termination decision because it had not presented sufficient medical evidence to support the termination.

Appellant underwent a functional capacity evaluation on December 5, 2005 and a report of the evaluation indicated that the findings were invalid “due to limited and inconsistent effort by the patient and negative inappropriate illness behavior.”

In a report dated December 21, 2005, Dr. Getz provided a description of appellant’s employment-related condition and the history of its treatment. Examination of appellant’s right hand revealed no swelling (other than swelling of the thumb) and a full range of motion in the wrist and all fingers. He noted that there was a well-healed scar overlying the extensor tendon of the long finger. Dr. Getz stated that appellant reported tenderness about the dorsum of the right hand and along the surgery scar with compression, tenderness over the first dorsal compartment of the right wrist with a degree of de Quervain’s disease and tenderness of the metacarpotrapezial joint consistent with osteoarthritis. He diagnosed “status postoperative intratendinous ganglion removal right hand extensor tendon of long finger” and “other thumb conditions unrelated to this claim.” Dr. Getz concluded that appellant had fully recovered from the accepted condition of ganglion cyst. He indicated that the cyst had not returned and that there were no objective findings related to the accepted condition, other than the existence of a “well-healed subjectively tender scar.” In an accompanying work restriction form, Dr. Getz indicated that the accepted employment condition did not prevent appellant from performing her regular work, but noted that she might have limitations due to nonwork-related hand and back conditions.

In a report dated March 21, 2006, Dr. Krakauer stated that he had “nothing further to offer with regard to this patient in terms of work restrictions” and indicated that he had no disagreement with the examination performed by Dr. Getz.

By letter dated April 12, 2006, the Office advised appellant that it proposed to terminate her compensation because the December 21, 2005 report of Dr. Getz showed that she no longer had residuals of her employment injury. The Office provided appellant an opportunity to respond to the proposed termination.<sup>3</sup>

In a letter dated April 24, 2006, appellant argued that she continued to have pain in her right hand, including the extensor tendon of her right long finger, which prevented her from working as a dental hygienist.<sup>4</sup>

By decision dated June 9, 2005, the Office finalized its proposed notice of termination and terminated appellant’s compensation effective June 10, 2006.

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<sup>3</sup> The Office inadvertently indicated that appellant’s hand surgery was on May 5, 2002 rather than May 2, 2000.

<sup>4</sup> Appellant asserted that the Office made a “very relevant statement” in its proposed termination notice which was erroneous when it stated that her surgery occurred on May 5, 2002 rather than May 5, 2000. She also submitted a statement in which the director of dental hygiene at Coastal Carolina Community College stated that a dental hygienist needed to have “good manual dexterity and psychomotor coordination.”

## LEGAL PRECEDENT

Under the Federal Employees' Compensation Act,<sup>5</sup> once the Office has accepted a claim it has the burden of justifying termination or modification of compensation benefits.<sup>6</sup> The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.<sup>7</sup> The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>8</sup>

## ANALYSIS

The Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Getz, a Board-certified orthopedic surgeon, who served as an Office referral physician. The December 21, 2005 report of Dr. Getz establishes that appellant had no disability due to her employment injury after June 10, 2006. Dr. Getz' opinion on this matter is further supported by the opinion of Dr. Krakauer, an attending Board-certified orthopedic surgeon.

In a report dated December 21, 2005, Dr. Getz indicated that examination of appellant's right hand revealed no swelling (other than swelling of the thumb) and full range of motion in the wrist and all fingers. Dr. Getz stated that appellant reported tenderness about the dorsum of the right hand and along the surgery scar with compression, tenderness over the first dorsal compartment of the right wrist with a degree of de Quervain's disease and tenderness of the metacarpotrapezial joint consistent with osteoarthritis. He diagnosed "status postoperative intratendinous ganglion removal right hand extensor tendon of long finger" and "other thumb conditions unrelated to this claim." Dr. Getz concluded that appellant had fully recovered from the accepted condition of ganglion cyst and that the accepted employment injury did not prevent her from returning to her regular employment.

The Board has carefully reviewed the opinion of Dr. Getz and notes that it has reliability, probative value and convincing quality with respect to its conclusions regarding the relevant issue of the present case. Dr. Getz' opinion is based on a proper factual and medical history in that he had the benefit of an accurate and up-to-date statement of accepted facts, provided a thorough factual and medical history and accurately summarized the relevant medical evidence.<sup>9</sup>

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<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

<sup>7</sup> *Id.*

<sup>8</sup> *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

<sup>9</sup> *See Melvina Jackson*, 38 ECAB 443, 449-50 (1987); *Naomi Lilly*, 10 ECAB 560, 573 (1957).

Dr. Getz provided medical rationale for his opinion by explaining that appellant's employment-related cyst had not returned and that there were no objective findings related to the accepted condition. He further explained that appellant's pain complaints were subjective in nature and that her continuing problems were due to nonwork problems.<sup>10</sup>

Moreover, Dr. Getz' report was supported by a March 21, 2006 report, in which Dr. Krakauer, who treated appellant over a long period, stated that he had "nothing further to offer with regard to this patient in terms of work restrictions" and indicated that he had no disagreement with the examination performed by Dr. Getz.<sup>11</sup>

### CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation effective June 10, 2006 on the grounds that she no longer had residuals of her employment injury after that date.

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<sup>10</sup> For example, Dr. Getz indicated that appellant had nonwork-related degenerative disease of the right hand.

<sup>11</sup> Appellant argued that she continues to have pain in her right hand, which prevents her from working as a dental hygienist, but this type of nonphysician's opinion would not lend probative support to her claim of continuing employment-related residuals. *See Arnold A. Alley*, 44 ECAB 912, 920-21 (1993). She asserted that the Office made a mistake in its proposed termination notice when it stated that her surgery occurred on May 5, 2002 rather than May 5, 2000, but she did not explain how the existence of this inadvertent error supported her claim. Appellant submitted a statement in which the director of dental hygiene at a community college stated that a dental hygienist needed to have good manual dexterity and psychomotor coordination, but this general statement has no relevance to appellant's particular claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' June 9, 2006 decision is affirmed.

Issued: October 17, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board