



conference in Malaysia. He stopped work on April 4, 2007 and returned to work on April 10, 2007.

On April 25, 2007 the Office advised appellant of the factual and medical evidence necessary to establish his claim and allowed him 30 days to submit additional evidence.

Appellant submitted an April 4, 2007 report of Heather Lien, a nurse practitioner, who noted that appellant sustained right calf pain the day after a long flight. Ms. Lien diagnosed right leg pain and right leg DVT. That same day, Dennis Loudonback, a physician's assistant, performed a lower extremity venous evaluation. Appellant also submitted an April 4, 2007 report of Dr. Esteban Ambrad-Chalela, a Board-certified surgeon, who noted appellant's complaint of right calf pain after waking up on a flight after having slept for five hours. Dr. Ambrad-Chalela reviewed preliminary reports diagnosing right lower extremity DVT. He advised anticoagulation treatment. On April 6, 2007 Dr. Michael Rosenfield, an osteopath specializing in family medicine, noted that appellant had developed a clot. He treated appellant for side effects from a prescription. On April 9, 2007 Ms. Lien noted that appellant's right leg pain and DVT had improved. On April 16, 2007 she opined that appellant's condition was caused or aggravated by his air travel.

Appellant also submitted an April 19, 2007 statement explaining that he experienced pain on March 24, 2007 during a flight between Seattle, Washington, and Seoul, Korea, on his way to Malaysia. He also noted that he did not seek treatment until he returned from his trip. Also submitted was a copy of appellant's travel authorization from the employing establishment.

In a June 5, 2007 decision, the Office denied appellant's claim. It found that appellant was in the performance of duty during his flight but that his physician did not explain how his flight caused his DVT.

In an undated witness statement received on June 12, 2007, Carol Giles, assistant deputy director of Flight Standards Service, indicated that she had traveled with appellant to Malaysia. She noted that appellant remarked about leg pain and the possibility that it could be DVT.

On February 26, 2008 Arlene Martin, a physician's assistant, noted that appellant had been treated for DVT by Dr. Ambrad-Chalela and that there was an established link between DVT and air travel.

In an April 14, 2008 report, Dr. Kaj Johansen, a Board-certified vascular surgeon, noted appellant's treatment by Dr. Ambrad-Chalela for right calf DVT. He advised that appellant asked him to address his DVT sustained during a long-haul airplane flight to Korea from Seattle, Washington. Dr. Johansen advised that a clear link has been established between long-haul air travel and DVT with an airplane passenger having four times the risk of venous thromboembolism the first two weeks after a long flight, a flight greater than four hours. He noted that this estimation was based on studies of frequent travelers, regardless of previous health risk or familial propensity toward DVT. Dr. Johansen advised that the risk was increased by 12 percent for an annual traveler of long distances and increased subsequently with more frequent travel over long distances. He noted that appellant did not previously have a history of thrombosis, and did not have a family history of DVT or similar conditions. Dr. Johansen

advised that appellant did not smoke and was physically active, both of which would decrease his risk of DVT. He opined that appellant's DVT was a "direct result of his long-haul air travel, and perhaps further compounded by his regular air travel prior to that event." Dr. Johansen attached references to medical articles to support his opinion.

On May 13, 2008 appellant requested reconsideration.

In a decision dated June 6, 2008, the Office denied modification of its June 5, 2007 decision finding that the evidence did not support entitlement to compensation.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>2</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>3</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>4</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *S.P.*, 59 ECAB \_\_\_\_ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *Id.*

<sup>4</sup> *I.J.*, 59 ECAB \_\_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

## ANALYSIS

The record supports that appellant was on a flight on his way to a conference in Malaysia on March 24, 2007. However, appellant has not submitted sufficient medical evidence to establish the flight caused or aggravated a diagnosed medical condition.

The only medical report that supports causal relationship between appellant's DVT and his flight to Korea is Dr. Johansen's April 14, 2008 report. Dr. Johansen commented that a clear link had been established between long-haul air travel and DVT and provided references to medical literature. He noted that appellant had no prior history of DVT and did not have a lifestyle conducive to DVT. Based on this, Dr. Johansen opined that appellant's DVT was a "direct result" of his long-haul air travel and "perhaps further compounded" by his previous regular air travel. The Board finds that Dr. Johansen provided insufficient medical rationale in support of his opinion.<sup>5</sup> While Dr. Johansen indicated that there was a clear link between air travel and DVT in medical literature, he did not explain the process by which appellant's travel on March 24, 2007 would have caused or aggravated DVT, nor did he explain how any of the referenced medical literature applied to appellant's situation.<sup>6</sup> He also premised his support for causal relationship by noting that appellant had no prior history of DVT. However, the Board notes that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>7</sup> Dr. Johansen's opinion in support of causal relationship is also couched in speculative terms given that he stated that appellant's regular air travel prior to the flight to Korea "perhaps" further compounded appellant's condition. The speculative nature of his opinion diminishes its probative value.<sup>8</sup>

On April 4, 2007 Dr. Ambrad-Chalela noted appellant's complaint of right calf pain after waking up on a flight. He further noted that prior medical reports had diagnosed right lower extremity DVT. However, Dr. Ambrad-Chalela did not specifically address whether appellant's DVT was caused or aggravated by his employment-related flight. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>9</sup> Additionally, Dr. Rosenfield's April 6, 2007 report only noted that appellant had developed a clot. He did not address whether the March 24, 2007 flight caused or aggravated appellant's condition. As noted, medical evidence without a physician's opinion on causal relationship is of limited probative value.

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<sup>5</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>6</sup> See *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005) (scientific studies, like medical literature, have probative value only to the extent they are interpreted by a physician rendering an opinion on causal relationship).

<sup>7</sup> *A.D.*, 58 ECAB \_\_\_\_ (Docket No. 06-1183, issued November 14, 2006).

<sup>8</sup> See *Kathy Kelley*, 55 ECAB 206 (2004) (the Board has held that opinions such as, the implant "may have ruptured" and that the condition is "probably" related, "most likely" related or "could be" related are speculative and diminish the probative value of the medical opinion).

<sup>9</sup> See *K.W.*, 59 ECAB \_\_\_\_ (Docket No. 07-1669, issued December 13, 2007).

Furthermore, the reports of physician's assistants, Mr. Loudenback and Ms. Martin, have no probative value as medical evidence. The Board has noted that a physician's assistant is not a physician as defined under the statute<sup>10</sup> and therefore any report from such individual does not constitute competent medical evidence which, in general, can only be given by a qualified physician.<sup>11</sup> Similarly, reports from Ms. Lien do not constitute medical evidence as nurses are not "physicians" as defined under the Act and, therefore, their opinions are of no probative value.<sup>12</sup>

Consequently, the medical evidence does not establish that appellant's DVT was caused or aggravated by his March 24, 2007 flight.

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof in establishing that he sustained a traumatic injury in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated June 6, 2008 is affirmed.

Issued: May 6, 2009  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>10</sup> 5 U.S.C. § 8101(2) (defining the term "physician").

<sup>11</sup> See *George H. Clark*, 56 ECAB 162 (2004).

<sup>12</sup> See *Roy L. Humphrey*, 57 ECAB 238 (2005); see also *Charley V.B. Harley*, 2 ECAB 208 (1949) (the Board held that medical opinion, in general, can only be given by a qualified physician).