



repositioning patients and administering medication by pushing a cart. She first became aware of her condition and of its relationship to her employment on March 15, 2011. Appellant notified her supervisor on March 16, 2011.

By letter dated April 6, 2011, OWCP requested additional factual and medical evidence from both appellant and the employing establishment.

In an April 23, 2011 narrative statement, appellant reported that she was employed as a nurse for 10 years and her duties included passing medication to patients by pushing and maneuvering a cart weighing over 200 pounds, pushing and maneuvering patients in their beds and lifting, reaching, repositioning and transferring patients from their beds to wheelchairs. She noted that she had repositioned a very large patient on March 15, 2011 when she noticed right shoulder pain after she completed her shift. Appellant further noted that she had never had any prior injuries to her right shoulder. In support of her claim, she submitted an official position description for a registered nurse, as well as narrative statements from her supervisors which noted her right shoulder complaints and the duties involved with her position.

In a March 16, 2011 medical report, Dr. John C. Holder, Board-certified in nuclear medicine, reported that appellant complained of acute right shoulder pain. Appellant did not recall injuring herself but reported that she worked as a registered nurse and often had to lift patients. She first noticed pain in her right shoulder during her shift which eventually became unbearable. Dr. Holder diagnosed right shoulder impingement and noted that she injured her right shoulder while lifting patients.

In a March 17, 2011 diagnostic report, Dr. Paul C. Hessler, a Board-certified radiologist, reported that an x-ray of appellant's right shoulder revealed minimal rotator cuff syndrome with no degenerative changes or fractures.

In medical reports dated March 17 and 22, 2011, Dr. Matthew Graham, Board-certified in family medicine, reported that appellant complained of right shoulder pain, which she noticed came on gradually. Upon review of appellant's x-ray, the physician diagnosed right shoulder sprain and released her to work with restrictions.

In Duty Status Reports (Form CA-17) dated March 16 to May 12, 2011, appellant was released to work with limitations. Dr. Graham noted her condition as a right shoulder strain/impingement and stated that her condition was caused by cumulative trauma to the right shoulder and forearm.

Appellant also submitted nursing and therapy notes dated March 16 to April 22, 2011. On April 4, 2011 she accepted a limited-duty job offer.

By decision dated May 27, 2011, OWCP denied appellant's claim finding that the medical evidence did not demonstrate that the right shoulder injury was causally related to the established work-related events.

By letter dated June 18, 2011, appellant requested review of the written record before the Branch of Hearings and Review. She stated that she was still receiving treatment for her right shoulder and was enclosing additional medical evidence.

In a June 3, 2011 report, Thomas Bartole, a physical therapist, reported that appellant had been seeking physical therapy treatment since April 15, 2011 as a result of a muscle strain that occurred to the right cervical and shoulder regions. He noted that the nature of the muscle strain was likely secondary to overuse and repetitive stress or related to excessive pushing and pulling.

In a June 14, 2011 medical report, Dr. Graham stated that appellant first noticed her right shoulder pain on March 15, 2011 when she was performing her duties as a nurse which included pushing a medicine cart weighing over 200 pounds and assisting patient transfers. He opined that, given the nature of her injury and her job duties, appellant's right shoulder pain was a direct result of the performance of her job duties. Dr. Graham released appellant to work with restrictions.

By decision dated September 22, 2011, the Branch of Hearings and Review affirmed OWCP's May 27, 2011 decision finding that medical evidence did not demonstrate that her right shoulder impingement and sprain was causally related to the established work-related events.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of FECA; 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 or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.<sup>3</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>5</sup>

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<sup>2</sup> Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

<sup>3</sup> Michael E. Smith, 50 ECAB 313 (1999).

<sup>4</sup> Elaine Pendleton, 40 ECAB 1143 (1989).

<sup>5</sup> See Roy L. Humphrey, 57 ECAB 238, 241 (2005); Ruby I. Fish, 46 ECAB 276, 279 (1994).

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.<sup>6</sup> The opinion of the physician 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 claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>7</sup>

### ANALYSIS

OWCP accepted that appellant engaged in repetitive lifting, pushing and pulling in her employment activities as a registered nurse. It denied her claim, however, on the grounds that the evidence failed to establish a causal relationship between those activities and her right shoulder impingement and strain. The Board finds that the medical evidence of record is insufficient to establish that appellant sustained a right shoulder injury causally related to factors of her employment as a registered nurse.

In a March 16, 2011 medical report, Dr. Holder reported that appellant complained of acute right shoulder pain. Appellant did not recall injuring herself but reported that she worked as a registered nurse and often had to lift patients. During her work shift, she noticed pain in her right shoulder. Dr. Holder diagnosed right shoulder impingement and noted that appellant injured herself while lifting patients. Though he diagnosed her injury, he failed to provide an opinion on causal relationship. Dr. Holder merely recounted the incident as described by appellant, did not explain that her condition was work related and did not offer a rationalized opinion on the issue of causal relationship.<sup>8</sup> Medical evidence that does not offer a medical opinion explaining how the accepted employment duties would have pathologically caused an employee's condition is of limited probative value on the issue of causal relationship.<sup>9</sup> Thus, Dr. Holder's report is not sufficient to meet appellant's burden of proof.<sup>10</sup>

In medical reports dated March 17 to June 14, 2011, Dr. Graham reported that appellant complained of right shoulder pain which came on gradually. Appellant first noticed the onset of pain on March 15, 2011 when she was performing her duties as a nurse which included pushing a medicine cart weighing over 200 pounds and assisting patient transfers. Dr. Graham diagnosed right shoulder impingement and strain. In a May 12, 2011 Form CA-17, he stated that right

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<sup>6</sup> See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>7</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>8</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>9</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>10</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

shoulder impingement was caused by cumulative trauma to the right shoulder forearm. In his June 14, 2011 medical report, Dr. Graham opined that given the nature of appellant's injury and job duties, that her right shoulder pain was a direct result of the performance of her job duties.

The Board finds that the opinions stated by Dr. Graham are also not well rationalized. Dr. Graham diagnosed right shoulder impingement and strain and attributed appellant's injury to her job duties of pushing a medicine cart and assisting patient transfers. While he stated an opinion on causal relationship, he failed to provide an explanation of how these employment duties would cause appellant's injury. Dr. Graham failed to adequately describe appellant's work duties, did not specify how long she worked as a registered nurse, how many hours she assisted with patient transfers and pushed the medicine cart and the frequency of other physical movements and tasks. He also failed to explain the pathological process by which these duties would have caused appellant's condition. The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.<sup>11</sup> Dr. Graham's reports do not meet that standard and are insufficient to meet appellant's burden of proof.

The remaining medical evidence of record is also insufficient to establish causal relationship between appellant's injury and her work-related duties as a registered nurse. Dr. Hessler's March 17, 2011 diagnostic report provides a diagnosis of minimal rotator cuff syndrome but does not provide any opinion on causal relationship.<sup>12</sup> The physical therapy and nurses notes do not constitute competent medical evidence in support of a claim as physical therapists and nurses are not physicians under FECA.<sup>13</sup> Thus, these reports are of no probative value.

In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between appellant's right shoulder impingement/strain and her factors of federal employment as a registered nurse. As such, appellant has failed to meet her burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

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<sup>11</sup> See *Lee R. Haywood*, 48 ECAB 145 (1996).

<sup>12</sup> *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *C.B.*, Docket No. 09-2027 *supra* note 9.

<sup>13</sup> 5 U.S.C. § 8102(2) of FECA provides as follows: (2) 'physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law; see also *Jennifer L. Sharp*, 48 ECAB 209 (1996); *Thomas R. Horsfall*, 48 ECAB 180 (1996); *Barbara J. Williams*, 40 ECAB 649 (1988).

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that her right shoulder impingement/strain is causally related to factors of her employment as a registered nurse.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 22, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 3, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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