

**United States Department of Labor  
Employees' Compensation Appeals Board**

V.R., Appellant	)	
	)	
and	)	Docket No. 19-1754
	)	Issued: March 2, 2021
DEPARTMENT OF HOMELAND SECURITY,	)	
IMMIGRATION & CUSTOMS	)	
ENFORCEMENT, Laguna Niguel, CA, Employer	)	
	)	

*Appearances:*  
Toby Rubenstein, for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On August 19, 2019 appellant, through his representative, filed a timely appeal from a March 18, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>2</sup>

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> The Board notes that following the March 18, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

Pursuant to the Federal Employees' Compensation Act<sup>3</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

### **ISSUES**

The issues are: (1) whether OWCP properly terminated appellant's wage-loss compensation and medical benefits effective January 30, 2018 as he no longer had residuals or disability causally related to his March 18, 2010 employment injury; (2) whether appellant has met his burden of proof to establish continuing employment-related disability or residuals on or after March 18, 2010 due to his accepted employment injury; and (3) whether appellant has met his burden of proof to establish that the acceptance of his claim should be expanded to include prostate cancer as a consequence of his March 18, 2020 employment injury.

### **FACTUAL HISTORY**

On March 19, 2010 appellant, then a 47-year-old special agent/criminal investigator, filed a traumatic injury claim (Form CA-1) alleging that on March 18, 2010 he sustained injuries while in the performance of duty after his vehicle was struck from behind by another vehicle. OWCP accepted the claim, assigned OWCP File No. xxxxxx295, for cervical and lumbar strains. It subsequently expanded acceptance of appellant's claim to include a depressive disorder not otherwise specified secondary to his physical injury. OWCP additionally indicated that it had accepted an anxiety disorder. It paid appellant wage-loss compensation for total disability on the supplemental rolls beginning July 14, 2011 and on the periodic rolls effective February 12, 2012.<sup>4</sup>

In a report dated March 27, 2013, Dr. Frederick G. Nicola, a Board-certified orthopedic surgeon and OWCP referral physician, discussed appellant's history of employment injuries beginning in September 2004. He diagnosed cervical and lumbar degenerative disc disease with no evidence of radiculopathy. Dr. Nicola opined that appellant had sustained cervical and lumbar sprain superimposed on preexisting degenerative disc disease of the cervical and lumbar spine that had resolved. In a May 17, 2013 addendum, he opined that appellant could perform light-duty employment. On September 30, 2013 Dr. Nicola attributed his work restrictions to his cervical degenerative disc disease, noting that the injuries from his March 18, 2010 MVA had resolved no later than October 20, 2010, when he was released to his regular employment.

In a state workers' compensation form report dated October 13, 2015, Dr. John B. Dorsey, a Board-certified orthopedic surgeon, diagnosed lumbar strain, strain of the muscle, fascia, and tendon, and an adjustment disorder with depressed mood. He found that appellant should remain off work and noted that he had retired from employment.

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> OWCP previously accepted that appellant sustained strains of the lumbar spine, cervical spine, and left shoulder due to a September 24, 2004 employment-related motor vehicle accident (MVA), assigned OWCP File No. xxxxxx875. It additionally accepted that he sustained lumbar sprain, thoracic sprain, right ankle sprain, and thoracic or lumbosacral neuritis or radiculitis due to an August 28, 2006 injury, assigned OWCP File No. xxxxxx931, and lumbar and cervical strain due to a June 23, 2008 employment-related MVA, assigned OWCP File No. xxxxxx529. OWCP administratively combined the cases with the current claim as the master file.

On November 13, 2015 OWCP referred appellant to Dr. Jacob Rabinovich, a Board-certified orthopedic surgeon, for a second opinion examination. In another letter of the same date, it referred him to Dr. Gregory M. Nicholson, a Board-certified psychiatrist, for a second opinion examination.

In a report dated December 7, 2015, Dr. Rabinovich provided his review of appellant's history of work injuries and the evidence of record. He diagnosed improved cervical and lumbar sprain causally related to the accepted employment injury and mild cervical and lumbar degenerative disc disease unrelated to the March 18, 2010 work injury. Dr. Rabinovich noted that appellant's MVA on March 18, 2010 had occurred in a parking lot with minor vehicle damage. He found that appellant had no residuals of his employment injury, noting that his physical examination was within normal limits and as objective studies showed no traumatic changes. Dr. Rabinovich opined that he required no further medical treatment for his lumbar and cervical sprain.

In a December 16, 2015 report, Dr. Nicholson diagnosed an unspecified depressive disorder and unspecified anxiety disorder causally related to appellant's employment injuries. He found that appellant required continued treatment, but that it was reasonable for him to attempt to resume work. In a December 24, 2015 work capacity evaluation-psychiatric/psychological conditions (Form OWCP-5a), Dr. Nicholson found that he could work in a suitable environment with minimal stress and no racial discrimination.

In a January 27, 2016 state workers' compensation form report, Dr. John Dorsey diagnosed lumbar sprain, a strain of the muscle, fascia, and tendon, and an adjustment disorder with depressed mood. He indicated that appellant could not work until February 27, 2016. In a February 17, 2016 form report, Dr. John Dorsey found that he was disabled until March 17, 2017.

In a February 18, 2016 report, Dr. E. Richard Dorsey, a Board-certified psychiatrist, advised that Dr. Nicholson had agreed that appellant had depressive disorder and anxiety disorder due to his employment and required continued treatment. He related that appellant's symptoms would worsen causing disability if he resumed his regular employment.

Dr. John Dorsey, in a February 26, 2016 report, concurred with Dr. Nicola's finding that appellant had sustained cervical and lumbar sprains superimposed on preexisting degenerative disc disease. He disagreed with Dr. Rabinovich's opinion that appellant had not sustained an aggravation of preexisting cervical and lumbar degenerative disc disease due to his employment injury. Dr. John Dorsey asserted that appellant had continuing residuals of his neck and low back pain and required periodic medication and therapy.

OWCP determined that a conflict in opinion existed between Dr. John Dorsey and Dr. Rabinovich regarding whether appellant had continued residuals or disability due to his accepted cervical and lumbar strains. It referred him to Dr. Nicholas C. Yaru, a Board-certified orthopedic surgeon, for an impartial medical examination. In the accompanying statement of accepted facts (SOAF), OWCP provided a history of appellant's employment injuries and listed the accepted conditions resulting from the March 18, 2010 employment injury as lumbar and cervical strain, and anxiety disorder. It further provided a history of the subsidiary claims.

In a report dated January 11, 2017, Dr. Yaru discussed appellant's history of a March 18, 2010 employment-related MVA and reviewed the evidence of record. On examination he found decreased range of motion of the cervical and lumbar thigh and right thigh atrophy. Dr. Yaru related, "I believe that [appellant] sustained an exacerbation of preexisting lumbar and cervical degenerative disc disease, which is related to the cumulative effects of his injuries prior to March 2010. Those as previously stated, were in 2004, 2006, and 2008." He advised, "In reviewing his psychological profile it is clear that [appellant] does suffer from insomnia, anxiety, and depression. These symptoms can be exacerbated by chronic pain as well." Dr. Yaru diagnosed lumbar and cervical degenerative disc disease. He opined that appellant's March 2010 employment injury had temporarily aggravated preexisting disease but that he had no residuals of his March 18, 2010 employment injury. Dr. Yaru asserted that he might experience future exacerbation of pain in the neck and back unrelated to the March 18, 2010 employment injury but instead due to "chronic and preexisting degenerative cervical spine and lumbar spine degenerative disc disease."

On March 15, 2017 OWCP requested that Dr. Yaru clarify whether appellant had recovered from his March 18, 2010 employment injury, whether his degenerative back and cervical condition were related to cumulative injuries from 2004, 2006, and 2008, and whether he had continued disability.

In a supplemental report dated April 12, 2017, Dr. Yaru related:

"It is my opinion that [appellant] has recovered from his 2010 injury. I agree with Dr. Rabinovich that the current condition and/or residuals are related to cumulative back and cervical injuries of 2004, 2006, and 2008. It is my opinion that [appellant] had an exacerbation of his degenerative disc disease of his cervical spine and lumbar spine. It is also my opinion that he is fully recovered from this exacerbation and there is no increased disability as a result of this exacerbated preexisting disease."

On March 27, 2017 OWCP referred appellant to Dr. Ashraf Elmashat, a Board-certified psychiatrist, for a second opinion examination.

In a report dated April 29, 2017, Dr. Elmashat provided his review of the SOAF and discussed appellant's history of injuries in 2004, 2006, 2008 and 2010. He diagnosed an adjustment disorder with mixed anxiety and depressed mood. Dr. Elmashat attributed appellant's history of an adjustment disorder to "his physical condition and harassment at work." He found that he would benefit from continued psychiatric care. Dr. Elmashat noted that the impartial medical examiner (IME) had found that appellant's cervical and lumbar degenerative disc disease had been exacerbated from employment injuries in 2004, 2006, and 2008 and that he had reached his pre-2010 injury status. He advised that from a psychiatric view, he could "resume his usual duties in a non-discriminatory environment." In a Form OWCP-5a dated May 7, 2019, Dr. Elmashat opined that appellant could perform his regular employment in a safe environment without discrimination.

On May 11, 2017 Dr. John Dorsey agreed with Dr. Yaru's finding that appellant had sustained an aggravation of preexisting degenerative disc disease, but opined that the aggravation

was permanent. He found that appellant could perform light work lifting up to 20 pounds occasionally and 10 pounds frequently.

In an August 9, 2017 letter, OWCP informed Dr. Elmashat that the IME had found that appellant had no employment-related residuals of his back condition. It requested that he explain whether appellant had continued residuals or the need for treatment due to his accepted back injury. OWCP indicated that it had not accepted harassment as a compensable factor of employment.

In a supplemental report dated August 19, 2017, Dr. Elmashat noted that the IME had determined that appellant's employment-related back pain had resolved. He related, "Therefore, [appellant] is no longer suffering continued residuals of his adjustment disorder related to the factors of employment and has been considered resolved. He is able to return back to his usual work from a psychiatric point of view."

In a state workers' compensation form report dated August 30, 2017, Dr. John Dorsey diagnosed lumbar sprain, sprain of the muscle, fascia, and tendon of the neck, and a single episode of major depressive disorder.<sup>5</sup> In a September 27, 2017 report, he also diagnosed an unspecified anxiety disorder.<sup>6</sup>

On November 21, 2017 OWCP advised appellant of its proposed termination of his wage-loss compensation and medical benefits as the weight of the evidence established that he no longer had any employment-related residuals or disability due to his accepted employment injury. It afforded him 30 days to submit additional evidence or argument if he disagreed with the proposed termination.

On December 1, 2017 Dr. E. Dorsey noted that OWCP proposed to terminate appellant's wage-loss compensation based on Dr. Yaru's evaluation. He indicated that Dr. Elmashat's opinion was only valid if Dr. Yaru's conclusions were accurate. Dr. E. Dorsey diagnosed depressive disorder, not otherwise specified, with anxiety and rated appellant's global assessment of function (GAF) score as 65 showing mild-to-moderate impairment.

In a report dated December 6, 2017, Dr. John Dorsey advised that he had treated appellant since March 24, 2010. He noted his history of work injuries in 2004, 2006, 2008, and 2010. Dr. John Dorsey found that he had sustained a permanent aggravation of his preexisting disc herniation. He diagnosed lumbar sprain/strain with radiculopathy, a herniated nucleus pulposus, cervical sprain/strain, and cervical disc disorder with radiculopathy. Dr. John Dorsey found that appellant could perform semi-sedentary work and attributed his disability to his March 18, 2010 employment injury.

On December 15, 2017 appellant's then-counsel asserted that OWCP should expand acceptance of the claim to include cervical disc disorder with radiculopathy based on Dr. John Dorsey's opinion.

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<sup>5</sup> On September 22, 2017 Dr. Stephen H. Barkow, a Board-certified anesthesiologist, provided pain management.

<sup>6</sup> Dr. John Dorsey continued to provide progress reports describing his treatment of appellant.

By decision dated January 30, 2018, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that the opinion of Dr. Yaru represented the special weight of the evidence and established that appellant had no further residuals or disability due to his accepted employment-related orthopedic condition. OWCP found that appellant had no residuals of his adjustment disorder with depressed mood based on the opinion of Dr. Elmashat. It noted that appellant could file an occupational disease claim if he believed that he had sustained a stress-related condition due to employment factors unrelated to his physical injury.

An electromyogram and nerve conduction velocity (EMG/NCV) study performed on February 9, 2018 yielded normal findings.

On July 17, 2018 Dr. Susan Himmelstein, a psychologist, performed psychological testing and diagnosed late-onset moderate-to-severe persistent depressive disorder. She noted that appellant's history was positive for multiple traumatic work injuries and racial discrimination complaints.

In a report dated October 18, 2018, Dr. Sara A. Epstein, a Board-certified psychiatrist, provided her review of appellant's employment injuries, his Equal Employment Opportunity (EEO) claims, and the medical evidence of record pertaining to his psychological condition. She diagnosed major depression, generalized anxiety disorder, and chronic stress disorder and explained the findings supporting the diagnoses. Dr. Epstein opined that appellant did not meet the criteria for an adjustment disorder. She found that his psychiatric diagnoses were "largely caused by work injuries" and pain causing reduced function.

On August 30, 2018 Dr. Franklin Caldera, an osteopath, indicated that he had reviewed the medical evidence, including appellant's history of four employment injuries, and the SOAF. He provided examination findings and diagnosed an aggravation of cervical degenerative disc disease, cervical and lumbar strain/sprain, and cervical and lumbar radiculitis. Dr. Caldera explained how the diagnosed conditions resulted from the March 18, 2010 employment injury. He opined that appellant had sustained an aggravation of preexisting cervical and lumbar disc disease due to the accepted employment injury. In a work capacity evaluation-musculoskeletal conditions form (OWCP-5c) dated August 27, 2018, Dr. Caldera provided work restrictions.

An October 26, 2018 biopsy report indicated that appellant had adenocarcinoma of the prostate.

In a November 9, 2018 addendum, Dr. Caldera provided the same diagnoses. He noted that appellant had prostate cancer.

In a supplemental report dated November 12, 2018, Dr. Epstein opined that there was "evidence to suggest that [appellant's] work injury contributed to precipitating prostate cancer." She asserted that his prostate cancer was "directly influenced by his work injury, a surfeit of stress and depression." Dr. Epstein referenced medical literature supporting that stress increased the incidence of prostate cancer.

On December 19, 2018 appellant's representative requested reconsideration. She maintained that OWCP had not considered that the cumulative effect of appellant's four injuries

on his underlying degenerative disc disease. The representative also noted that OWCP, in its September 17, 2013 decision, indicated that it had accepted depressive disorder, not otherwise specified. She asserted that OWCP should expand acceptance of the claim to include cervical and lumbar radiculitis and an aggravation of cervical and lumbar degenerative disc disease. The representative summarized the newly submitted medical evidence. She asserted that the SOAF had failed to set forth the physical requirements of his position and noted that a functional capacity evaluation showed that he could not sit more than 25 minutes before experiencing pain. The representative further summarized the decisions by the Equal Employment Opportunity Commission (EEOC) supporting that appellant had experienced radical discrimination at work. She submitted a transcript from a vocational expert from a November 2018 Social Security Administration (SSA) hearing and a July 31, 2017 vocational evaluation report.

By decision dated March 18, 2019, OWCP denied modification of its January 30, 2018 termination decision. It additionally found that appellant had not established prostate cancer as a compensable consequential injury.

### **LEGAL PRECEDENT -- ISSUE 1**

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.<sup>7</sup> After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.<sup>8</sup> Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>9</sup>

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.<sup>10</sup> To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.<sup>11</sup>

Section 8123(a) provides that, if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.<sup>12</sup> When there are opposing reports of virtually

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<sup>7</sup> *R.H.*, Docket No. 19-1064 (issued October 9, 2020); *M.M.*, Docket No. 17-1264 (issued December 3, 2018).

<sup>8</sup> *A.T.*, Docket No. 20-0334 (issued October 8, 2020); *E.B.*, Docket No. 18-1060 (issued November 1, 2018).

<sup>9</sup> *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

<sup>10</sup> *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

<sup>11</sup> *R.P.*, Docket No. 18-0900 (issued February 5, 2019).

<sup>12</sup> 5 U.S.C. § 8123(a); *L.T.*, Docket No. 18-0797 (issued March 14, 2019); *Shirley L. Steib*, 46 ECAB 309, 317 (1994).

equal weight and rationale, the case must be referred to an IME, pursuant to section 8123(a) of FECA, to resolve the conflict in the medical evidence.<sup>13</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that OWCP improperly terminated appellant's wage-loss compensation and medical benefits, effective January 30, 2018.

OWCP accepted that appellant sustained cervical and lumbar strains due to his March 18, 2010 employment injury under OWCP File No. xxxxxx295. It further indicated that it had accepted a depressive disorder and an anxiety disorder as a result of his physical injuries. Additionally, OWCP accepted that appellant sustained lumbar, cervical, and left shoulder strain due to a September 24, 2004 MVA under OWCP File No. xxxxxx875, lumbar sprain, thoracic sprain, right ankle sprain, and thoracic or lumbosacral neuritis or radiculitis due to an August 28, 2006 injury under OWCP File No. xxxxxx931, and lumbar and cervical strain due to a June 23, 2008 MVA under OWCP File No. xxxxxx529. OWCP administratively combined the files into OWCP File No. xxxxxx295. It paid appellant wage-loss compensation for total disability on the periodic rolls effective February 12, 2012.

Regarding whether appellant had residuals of his accepted orthopedic conditions, OWCP properly determined that a conflict existed between appellant's physician, Dr. John Dorsey, and Dr. Rabinovich, a second opinion physician, regarding whether appellant had continued residuals due to his accepted cervical and lumbar strains. It referred him to Dr. Yaru for an impartial medical examination in order to resolve the conflict, pursuant to 5 U.S.C. § 8123(a). OWCP provided Dr. Yaru with a SOAF containing a history of all of appellant's accepted conditions.

Where a case is referred to an IME for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.<sup>14</sup>

The Board finds that Dr. Yaru's opinion fails to support that appellant no longer had residuals or disability due to an employment-related orthopedic condition. In a report dated January 11, 2017, Dr. Yaru discussed his history of employment injuries in 2004, 2006, 2008, and March 2010. He opined that appellant had experienced an exacerbation of preexisting lumbar and cervical disc disease as a result of the employment injuries that had occurred prior to 2010. Dr. Yaru diagnosed lumbar and cervical degenerative disc disease and found that the March 2010 employment injury had temporarily aggravated his preexisting condition. He asserted that appellant had no residuals of his March 2010 employment injury but might experience future aggravations due to his preexisting degenerative disc disease of the cervical and lumbar spine. In an April 12, 2017 supplemental report, Dr. Yaru found that appellant's current residuals were related to the cumulative effect of injuries in 2004, 2006, and 2008 and that the 2010 injury had caused an exacerbation of cervical and lumbar degenerative disc disease from which he had recovered without increased disability. He did not address whether appellant had continued

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<sup>13</sup> *D.B.*, Docket No. 19-0663 (issued August 27, 2020).

<sup>14</sup> *R.O.*, Docket No. 19-0885 (issued November 4, 2019); *Roger Dingess*, 47 ECAB 123 (1995).



disability due to his preexisting cervical and lumbar degenerative disc disease, which he found related to prior employment injuries. As Dr. Yaru determined that appellant had continued residuals of his prior employment injuries, which were combined into this claim, his opinion is insufficient to support that appellant has no further employment-related disability.<sup>15</sup> The Board thus finds that OWCP erred in relying on the opinion of Dr. Yaru to terminate appellant's wage-loss compensation and medical benefits for his accepted employment-related orthopedic conditions.

Regarding appellant's psychological condition, Dr. Elmashat based his opinion that appellant had no further employment-related psychological condition on the finding by the IME that he had no residuals of his accepted orthopedic condition. As discussed, however, Dr. Yaru's opinion is insufficient to establish that appellant has no residuals of his orthopedic conditions; consequently, Dr. Elmashat's opinion is insufficient to show that he has no further psychological condition due to his accepted work injury.<sup>16</sup>

As OWCP has not established that appellant no longer has continuing residuals or disability due to either his employment-related orthopedic or psychiatric conditions, it has failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits.<sup>17</sup>

### **LEGAL PRECEDENT -- ISSUE 3**

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>18</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>19</sup>

In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury. The rules that come into play are essentially based upon the concepts of direct and natural results and of the claimant's own conduct as an independent intervening cause. The basic rule is that a subsequent injury,

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<sup>15</sup> See *D.F.*, Docket No. 19-1257 (issued July 14, 2020).

<sup>16</sup> Additionally, the Board notes that the SOAF provided to Dr. Elmashat provided that OWCP had accepted an adjustment disorder with depressed mood. Prior OWCP decisions indicated that it had also accepted an anxiety disorder and depressive disorder.

<sup>17</sup> In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

<sup>18</sup> *G.R.*, Docket No. 18-0735 (issued November 15, 2018).

<sup>19</sup> *Id.*

whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.<sup>20</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include prostate cancer as a consequence of his March 18, 2020 employment injury.

On November 12, 2018 Dr. Epstein advised that evidence suggested that appellant's employment injury contributed to his prostate cancer. She found that stress and depression from his injury "directly influenced" his prostate cancer. Dr. Epstein, however, failed to provide any rationale for her opinion. A medical report is of limited probative value when the opinion on causal relationship lacks medical rationale.<sup>21</sup> While Dr. Epstein referenced medical literature supporting that stress increased the occurrence of prostate cancer, the Board has held that medical texts and excerpts from publications are of no evidentiary value in establishing causal relationship as such materials are of general application and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee.<sup>22</sup>

The Board finds that the medical evidence is insufficient to establish that appellant sustained prostate cancer as a consequential injury. Appellant therefore has not met his burden of proof.<sup>23</sup>

Regarding the issue of a consequential injury, appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that OWCP improperly terminated appellant's wage-loss compensation and medical benefits effective January 30, 2018. The Board further finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include prostate cancer as a consequence of his March 18, 2010 employment injury.

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<sup>20</sup> *K.S.*, Docket No. 17-1583 (issued May 10, 2018); Arthur Larson & Lex K. Larson, *The Law of Workers' Compensation* § 3.05 (2014).

<sup>21</sup> *See C.R.*, Docket No. 18-1285 (issued February 12, 2019); *Debra L. Dillworth*, 57 ECAB 516 (2006).

<sup>22</sup> *L.C.*, Docket No. 17-1811 (issued March 23, 2018); *J.F.*, Docket No. 17-0458 (issued October 2, 2017).

<sup>23</sup> *See R.V.*, Docket No. 18-0552 (issued November 5, 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 18, 2019 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part.

Issued: March 2, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board