United States Department of Labor
Employees' Compensation Appeals Board

C.H., Appellant	)	
and	)	**Docket No. 25-0848**
	)	**Issued: November 24, 2025**
DEPARTMENT OF VETERANS AFFAIRS, VA HUDSON VALLEY HEALTH CARE SYSTEM, Castle Point, NY, Employer	)	

Appearances:
Paul Kalker, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On September 3, 2025 appellant, through counsel, filed a timely appeal from an August 20, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] 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.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the August 20, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a recurrence of disability as of March 8, 2022, causally related to her accepted June 23, 2002 employment injury.

FACTUAL HISTORY

On July 8, 2002 appellant, then a 43-year-old registered nurse, filed a traumatic injury claim (Form CA-1) alleging that on June 23, 2002 she sustained an injury when a patient pushed her and her right elbow hit the patient's bed and a wall while in the performance of duty. She stopped work shortly after the June 23, 2002 incident. On September 10, 2002 OWCP accepted appellant's claim for closed fracture of the olecranon of the right ulna. It paid her wage-loss compensation for disability from work on the supplemental rolls commencing August 25, 2002.

Appellant returned to limited-duty work for the employing establishment on a full-time basis on January 9, 2003. She stopped work on June 2, 2003.[4]

On September 8, 2003 Dr. Sasha Ristic, a Board-certified orthopedic surgeon, performed OWCP-authorized right elbow surgery, including arthroscopy with extensive debridement, right ulnar nerve transposition, right medial epicondylar debridement, and right medial collateral ligament tightening and imbrication/repair.

Appellant returned to work for the employing establishment as a modified registered nurse on March 6, 2006 for four hours per day with work restrictions. On November 25, 2013 she accepted a November 18, 2013 job offer to work in a full-time nurse recruiter position with the VA Hudson Valley Health Care System in Montrose, New York.[5] The position involved mostly sedentary activities, and its only physical restriction was no lifting/pushing/pulling more than five pounds. This work restriction requirement was based on an October 10, 2013 report by Dr. Ristic. Appellant started the job on February 9, 2014.

On February 8, 2015 appellant began working in a full-time staff nurse position with the VA Central Western Massachusetts Health Care System at the Northampton VA Medical Center in Northampton (Leeds), Massachusetts.

Appellant stopped work on March 8, 2022 and, on May 11, 2022, she filed a notice of recurrence (Form CA-2a) alleging that she sustained a recurrence of disability on March 8, 2022,[6] causally related to her accepted June 23, 2002 employment injury.[7] She asserted that her job had

[4] OWCP paid appellant wage-loss compensation for disability from work on the periodic rolls commencing March 21, 2004.

[5] The case record contains a report of work status (Form CA-3) indicating that appellant accepted the position on November 25, 2013.

[6] Appellant indicated on the Form CA-2a that she sustained a recurrence on September 14, 2021 but noted that she did not stop work until March 8, 2022.

[7] Appellant checked a box on the Form CA-2 indicating that, in addition to her claim for recurrence of disability she was also claiming a recurrence of the need for medical treatment. However, she continued to receive authorization of medical treatment related to her June 23, 2002 employment injury and a recurrence of the need for medical treatment is not a subject of the present claim.

required her to drive for more than five hours per day and reported that she had pain and decreased mobility in her right arm. Appellant indicated that her supervisor requested that she return to the office after having a "remote position" from 2015 to 2022.

In a March 17, 2022 report, Dr. Ristic noted that appellant presented for treatment of the June 23, 2002 work-related injury.[8] He indicated that appellant reported that she continued to have right elbow pain with throbbing and numbness that extended down into the right hand. Appellant also reported difficulty with driving for extended periods. Dr. Ristic detailed physical examination findings, including medial and lateral tenderness of the right elbow, and diagnosed carpal tunnel syndrome and right cubital tunnel syndrome. He indicated that appellant was "[o]ut of work over the next few weeks for rest" and noted that when she returned to work she should not lift more than 10 pounds or drive over an hour.

In a July 21, 2022 report, Dr. Ristic diagnosed degenerative arthritis of the right elbow, medial epicondylitis, right cubital tunnel syndrome, and right elbow pain. He noted that appellant was off work on temporary total disability. On September 8, 2022 Dr. Ristic diagnosed carpal tunnel syndrome, right cubital tunnel syndrome, and medial epicondylitis, and advised that appellant be off work on temporary total disability.

Appellant also submitted reports, dated June through October 2022, wherein Molly Goldberg and Amram Lavi, occupational therapists, and Christina McGrath, an occupational therapy assistant, discussed her therapy sessions.

In a November 9, 2022 development letter, OWCP notified appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a December 16, 2022 report, Dr. Ristic diagnosed right cubital tunnel syndrome, medial epicondylitis, and degenerative arthritis of the right elbow. He indicated that appellant was working but should limit forceful repetitive activity and limit driving to less than an hour. In a June 1, 2023 report, Dr. Ristic diagnosed right cubital tunnel syndrome and degenerative arthritis of the right elbow. He noted that appellant should limit driving and advised that she was off work on temporary total disability from an unspecified "previous occupation."

Appellant also submitted reports, dated December 2022 through January 2023, wherein Mr. Lavi and Jessica Simpson, an occupational therapist, noted their findings.

In a June 16, 2023 response to OWCP's development questionnaire, appellant asserted that, when she returned to full-time work in the mid-2010s, her direct supervisor was aware of her driving restrictions and she was told that she would be on telework status and not have to drive. Appellant indicated that, despite her driving restrictions, she was required to drive five and a half hours per day which caused increased pain and swelling in her right elbow.

By decision dated July 11, 2023, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that she sustained a recurrence of disability on or

[8] In his reports, Dr. Ristic reported the date of injury as June 24, 2002; however, this appears to be a typographical error as the actual date of injury was June 23, 2002.

after September 14, 2021, causally related to her accepted June 23, 2002 employment injury. It stated, "[Y]our claim for recurrence is denied because you have not established, *via* the medical evidence of record, that you are disabled/further disabled due to a material change/worsening of your accepted work-related conditions. This decision does not affect your entitlement to medical benefits for your accepted work-related conditions."

On August 14, 2023 OWCP received an August 4, 2023 report wherein Dr. Ristic diagnosed right cubital tunnel syndrome, medial epicondylitis, and degenerative arthritis of the right elbow. Dr. Ristic advised that appellant required limited-duty work with no driving for over an hour and no forceful repetitive activity of the right upper extremity. He indicated that appellant's present upper extremity condition was "due to the original injury" based on his examination findings and her symptoms and history.

On September 6, 2023 appellant requested reconsideration of the July 11, 2023 decision.

By decision dated November 15, 2023, OWCP denied modification of its July 11, 2023 decision.

OWCP received additional medical evidence. In a November 9, 2023 report, Dr. Ristic diagnosed right cubital tunnel syndrome. He indicated that appellant should continue her previous work restrictions and noted that the etiology of her "present state" was unchanged.

In a January 11, 2024 report, Dr. Ristic indicated that he had reviewed appellant's workers' compensation from June 2002 and believed that she had ulnar nerve symptoms and tendinitis of the right elbow that were "from her comp[ensation] case in 2002." He advised that appellant continued to have those symptoms and diagnosed right elbow tendinitis with some residual ulnar nerve symptoms and degenerative changes. Dr. Ristic stated, "She continues to have symptoms and I do think they are due to her injury and they have been consistent with a tendinitis from the [workers' compensation] case in 2002 to that right elbow with the ulnar nerve symptoms as well." He advised that appellant could perform limited-duty work with no forceful repetitive activity or lifting more than 10 pounds with the right arm. Dr. Ristic noted that appellant reported her job required her to "drive back and forth" which caused pain and tendinitis and he did not "think she can do that." He stated that she had "moderate partial disability 50%."

In February 28 and April 8, 2024 reports, Jean Walsh, a nurse practitioner, discussed appellant's medical treatment and diagnosed cubital tunnel syndrome. In February 28 and April 8, 2024 notes, she discussed appellant's capacity for work. In May 29 and July 17, 2024 reports, Lauren Feinstein, a physician assistant, detailed appellant's medical treatment and diagnosed cubital tunnel syndrome. Appellant also submitted reports, dated from April through June 2024, wherein Makayla Mutz and Victoria Isaacson, occupational therapists, discussed her therapy sessions.

On July 22, 2024 appellant, through her then-representative, requested reconsideration of the November 15, 2023 decision. The representative indicated that Dr. Ristic consistently recommended driving restrictions and asserted that, when appellant returned to work in February 2015 after an absence, she secured a telework position. He further asserted that, following an initial period of telework, appellant was required to spend five and half hours driving to and from work. The representative argued that appellant's disability was established by the

submitted reports of Dr. Ristic and he attached a November 25, 2014 accommodation request document wherein appellant requested telework due to her right elbow condition.

In a September 18, 2024 letter, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor on the accuracy of appellant's statements regarding her claim. It discussed the employing establishment's November 18, 2013 offer for the limited-duty job assignment which appellant accepted on November 25, 2013, and started on February 9, 2014, and requested that the employing establishment explain the basis for modifying appellant's work duties/tour of duty and withdrawing the job assignment on the date of the alleged recurrence of disability, March 8, 2022. OWCP requested that the employing establishment indicate whether the job assignment included the ability to telework and discuss appellant's current work status. It also requested that the employing establishment provide documents, including a current notification of personnel action (Standard Form (SF) 50) and a copy of the limited-duty job offer, with physical requirements, that appellant was performing on the date of the alleged recurrence of disability. OWCP further requested that the employing establishment provide relevant information, including information about physical requirements and ability to telework, regarding the position it had stated appellant accepted of her own accord in 2015.[9]

On September 16, 2024 OWCP received a September 5, 2024 report wherein Dr. Ristic diagnosed right elbow tendinitis. He indicated that appellant could not drive for extended periods and advised that she was off work on temporary total disability.

In a September 19, 2024 statement, M.W., a human resources specialist for the employing establishment, indicated that the employing establishment was challenging appellant's recurrence of disability claim. He indicated that appellant voluntarily applied for and accepted a new position on February 8, 2015 at a new employing establishment facility in Massachusetts. M.W. advised that it was the employing establishment's position that, by doing so, appellant abandoned the position she was previously hired to perform for the employing establishment. This job move was deemed as a self-rehabilitating action taken by appellant. M.W. noted that, per interviews conducted by the human resources office on September 18, 2024, C.G., appellant's current supervisor, and M.R., her previous supervisor, advised that they were not aware of any limited-duty assignment. C.R. and M.R. noted in their interviews that appellant was working for the VA Hudson Valley Health Care System as of the date of injury, June 23, 2002, and that she later accepted a November 18, 2013 limited-duty job offer to work for the VA Hudson Valley Health Care System in a different facility. On February 8, 2015 appellant accepted a new job with the VA Central Western Massachusetts Health Care System that she applied for *via* USA JOBS. This job transfer was not made in connection with her workers' compensation case, but rather was a voluntary move taken by the employee on her own. M.W. indicated that this was confirmed *via* an SF 50 form showing an effective starting date of February 8, 2015, and noted that the position in New York that appellant left on February 8, 2015 did not include any telework. During the September 18, 2024 interview, M.R. stated that appellant was hired and started work in Massachusetts on February 8, 2015 with no accommodations from her workers' compensation case or a reasonable accommodation program. During the September 18, 2024 interviews, C.G. and R.M. stated that, at the onset of COVID-19 in 2020, the employing establishment facility in Massachusetts sent all telework-eligible employees home to mitigate the effects of COVID-19 on

[9] On September 18, 2024 the employing establishment advised OWCP *via* telephone that appellant took "a new job offer under her own accord back in 2015."

the facility employees and the veteran population. M.W. noted that C.G. and R.M. further stated that, at the end of 2021, the facility medical center director recalled all telework-eligible employees to report back to the facility as was appropriate and at the agency prerogative. This directive from the facility medical center director was geared towards all employees and did not single out appellant.

The employing establishment attached several documents, including a job description for appellant's nurse job in Northampton, Massachusetts; a June 1, 2021 document entitled "transfer coordinator/traveling veteran coordinator functional statement -- registered nurse: nurse III" in which appellant attested to her job qualifications for the same job; and an SF 50 form demonstrating that on February 8, 2015 appellant began working in the full-time nurse job at the Northampton VA Medical Center.

On September 26, 2024 OWCP received a September 5, 2024 note, wherein Dr. Ristic indicated that appellant was off work on temporary total disability until her reevaluation in three months.

By decision dated October 11, 2024, denied modification of its November 15, 2023 decision, finding that the medical evidence of record was insufficient to establish a recurrence of disability as of September 14, 2021, causally related to her accepted June 23, 2002 employment injury.

OWCP subsequently received additional medical evidence. In a December 5, 2024 report, Dr. Ristic diagnosed cubital tunnel syndrome. He advised that, in terms of her work status, she remained with limited activity in terms of driving and forceful repetitive activity and opined that her right elbow pain, tendinitis, epicondylitis, and ulnar nerve pain were due to her original workers' compensation case from 2002.

In December 11, 2024 and March 11, 2025 reports, Stephen Lebitsch, a nurse practitioner, discussed appellant's medical condition and diagnosed chronic pain syndrome.

In a January 30, 2025 report, Dr. Ristic diagnosed right medial epicondylitis. He noted that appellant's original injury was on June 23, 2002 and that she had "a repeat injury" on March 8, 2022. Dr. Ristic stated, "The injury on March 8, 2022 is causally related and recurrence of her disability. Of her previous elbow tendinitis and cubital tunnel which made it worse. In my opinion based on reviewing of her medical records and her exam[ination] I do think she has a continued disability." He indicated that appellant should limit driving to less than an hour and not engage in forceful lifting or repetitive activity above five pounds. Dr. Ristic advised that she had "a temporary moderate disability at 50 percent."

In a May 1, 2025 report, Dr. Ristic diagnosed right medial epicondylitis and indicated that appellant was unable to work due to pain, weakness, numbness, and stiffness in her right arm.

On June 3, 2025 appellant, through counsel, requested reconsideration of the October 11, 2024 decision. She argued that the employing establishment withdrew appropriate work from appellant when it withdrew her telework on or about September 14, 2021.

In a June 25, 2025 statement, N.R., a workers' compensation specialist for the employing establishment, indicated that appellant voluntarily applied for and accepted a new position with an

employing establishment facility in Massachusetts effective February 8, 2015. She indicated that, in their September 8, 2024 interviews, C.G. and M.R. stated that they were not aware of any limited-duty restrictions for this new job, and no restricted duties were offered or mentioned when appellant accepted the position. N.R. maintained that the limited-duty position in New York that appellant left on February 8, 2015 did not include any telework. She advised that M.R. stated that appellant was not hired for the position in Massachusetts with any restrictions or accommodations. N.R. further noted that M.R. stated that, at the onset of COVID-19 in 2020, the employing establishment sent all telework-eligible employees home to mitigate the effects of COVID-19. Appellant was not sent home due to anything related to her workers' compensation case; telework was withdrawn at the leadership's discretion and appellant was required to return to the office.

On July 3, 2025 OWCP received a June 25, 2025 report wherein Mr. Lebitsch diagnosed chronic pain syndrome and, on July 21, 2025, it received a September 5, 2024 report wherein Dr. Ristic indicated that appellant could not drive for extended periods and was off work on temporary total disability.

By decision dated August 20, 2025, OWCP denied modification of its October 11, 2024 decision.

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.[10] This term also means an inability to work because a limited-duty assignment made specifically to accommodate an employee's physical limitations, and which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations.[11] A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.[12]

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.[13]

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a

[10] 20 C.F.R. § 10.5(x); *see J.D.,* Docket No. 18-1533 (issued February 27, 2019).

[11] *Id.*

[12] *Id.*

[13] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.[14] Where no such rationale is present, the medical evidence is of diminished probative value.[15]

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that he or she can perform the limited-duty position, the employee has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and to show that he or she cannot perform such limited-duty work.[16] As part of this burden, the employee must show a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the limited-duty job requirements.[17]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability as of March 8, 2022, causally related to her accepted June 23, 2002 employment injury.

Appellant submitted an August 4, 2023 report wherein Dr. Ristic diagnosed right cubital tunnel syndrome, medial epicondylitis, and degenerative arthritis of the right elbow. Dr. Ristic advised that she required limited-duty work with no driving for over an hour and no forceful repetitive activity of the right upper extremity. He indicated that appellant's present upper extremity condition was "due to the original injury" based on his examination findings and her symptoms and history. In a January 11, 2024 report, Dr. Ristic indicated that appellant had ulnar nerve symptoms and tendinitis of the right elbow that were "from her comp[ensation] case in 2002." He stated, "She continues to have symptoms and I do think they are due to her injury and they have been consistent with a tendinitis from the [workers' compensation] case in 2002 to that right elbow with the ulnar nerve symptoms as well." Dr. Ristic advised that appellant had "moderate partial disability 50 percent."

In a December 5, 2024 report, Dr. Ristic advised that, in terms of appellant's work status, she remained with limited activity in terms of driving and forceful repetitive activity and he opined that her right elbow pain, tendinitis, epicondylitis, and ulnar nerve pain were due to her original workers' compensation case from 2002. In a January 30, 2025 report, he noted that appellant's original injury was on June 23, 2002 and that she had "a repeat injury" on March 8, 2022. Dr. Ristic stated, "The injury on March 8, 2022 is causally related and recurrence of her disability. Of her previous elbow tendinitis and cubital tunnel which made it worse. In my opinion based on reviewing of her medical records and her exam[ination] I do think she has a continued disability." He indicated that appellant should limit driving to less than an hour and not engage in forceful

[14] *J.D.,* Docket No. 18-0616 (issued January 11, 2019); *see C.C.,* Docket No. 18-0719 (issued November 9, 2018).

[15] *H.T.,* Docket No. 17-0209 (issued February 8, 2018).

[16] *See D.W.,* Docket No. 19-1584 (issued July 9, 2020); *S.D.*, Docket No. 19-0955 (issued February 3, 2020); *Terry R. Hedman*, 38 ECAB 222 (1986).

[17] *C.B.*, Docket No. 19-0464 (issued May 22, 2020); *Terry R. Hedman, id.*; *R.N.*, Docket No. 19-1685 (issued February 26, 2020).

lifting or repetitive activity above five pounds. Dr. Ristic further advised that she had "a temporary moderate disability at 50%."

The Board finds that these reports of Dr. Ristic lack sufficient medical rationale on causal relationship and, therefore, are of limited probative value regarding appellant's claim that she sustained a recurrence of disability as of March 8, 2022, causally related to her accepted June 23, 2002 employment injury. Appellant's claim has only been accepted for a closed fracture of the olecranon of the right ulna sustained on June 23, 2002. Dr. Ristic did not discuss the accepted employment injury in any detail or explain how it could have caused disability beginning almost 20 years later. The Board has held that reports that do not contain medical rationale explaining how the accepted employment injury caused or contributed to the claimed disability are of limited probative value regarding causal relationship.[18] Therefore, this evidence is insufficient to establish appellant's recurrence of disability claim.

Appellant also submitted other reports, dated March 17, July 21, and September 8, 2022, June 1, 2023, September 5, 2024, and May 1, 2025, in which Dr. Ristic indicated that appellant was totally disabled and/or noted that she should limit her driving or forceful repetitive activity with her right arm. In a December 16, 2022 report, he indicated that she was working but should limit forceful repetitive activity with her right arm and limit driving to less than an hour. In a November 9, 2023 report, Dr. Ristic noted that appellant should continue her previous work restrictions and noted that the etiology of her "present state" was unchanged. However, Dr. Ristic did not identify the cause of the disability referred to in these reports. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.[19] Therefore, this evidence is insufficient to establish appellant's recurrence of disability claim.

Appellant submitted reports, dated from June 2022 through June 2024, wherein Ms. Goldberg, Mr. Lavi, Ms. Simpson, Ms. Mutz, and Ms. Isaacson, occupational therapists, and Ms. McGrath, an occupational therapy assistant, detailed her therapy sessions. She also submitted February 28 and April 8, 2024 reports and notes by Ms. Walsh, a nurse practitioner, May 29 and July 17, 2024 reports by Ms. Feinstein, a physician assistant, and December 11, 2024 and March 11 and June 25, 2025 reports by Mr. Lebitsch, a nurse practitioner. However, certain healthcare providers such as physician assistants, nurses, and physical and occupational therapists are not considered physicians as defined under FECA.[20] Consequently, their medical findings

[18] *See T.T.,* Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017). *See also L.G.*, Docket No. 19-0142 (issued August 8, 2019) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[19] *See F.S.,* Docket No. 23-0112 (issued April 26, 2023); *L.B.,* Docket No. 18-0533 (issued August 27, 2018); *D.K.,* Docket No. 17-1549 (issued July 6, 2018).

[20] Section 8101(2) provides that physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law, 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical and occupational therapists are not competent to render a medical opinion under FECA); *H.S.,* Docket No. 20 0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA); *P.S.,* Docket No. 17-0598 (issued June 23, 2017) (registered nurses and nurse practitioners are not considered physicians as defined under FECA); *J.R.,* Docket No. 19-0812 (issued September 29, 2020) (an occupational therapist is not considered a physician under FECA).

and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[21] Therefore, this evidence is insufficient to establish appellant's recurrence of disability claim.

Appellant argued on reconsideration that she sustained a recurrence of disability because the employing establishment withdrew limited-duty work restrictions for her June 23, 2002 employment injury prior to the time she stopped work on March 8, 2022.[22] However, she has not submitted sufficient evidence to support this assertion. On November 25, 2013 appellant accepted a November 18, 2013 job offer to work in a full-time nurse recruiter position with the VA Hudson Valley Health Care System in Montrose, New York. The position involved mostly sedentary activities and its only physical restriction was no lifting/pushing/pulling more than five pounds. This work restriction requirement was based on an October 10, 2013 report wherein Dr. Ristic advised that appellant could return to full-time work with a restriction from lifting more than five pounds. Appellant started the job on February 9, 2014 and the evidence of record demonstrates that this position was still available to her on February 8, 2015 when she began working in a full-time nurse position with the VA Central Western Massachusetts Health Care System at the Northampton VA Medical Center in Northampton, Massachusetts. The evidence of record further demonstrates that appellant voluntarily applied for and accepted this position in Massachusetts, that it was not a limited-duty position designed to accommodate her work-related medical condition, and that the position was not a telework or remote work position. The employing establishment placed appellant on telework for a period during the COVID-19 epidemic between 2020 and 2021 and she claimed that the employing establishment's order for her to return to the workplace on September 14, 2021 effectively constituted a withdrawal of her position. However, the employing establishment explained that it sent all telework-eligible employees home in 2020 to mitigate the effects of COVID-19, that appellant was not sent home due to anything related to her workers' compensation case, and that telework was withdrawn in 2021 at the leadership's discretion for all employees without singling out appellant.

As the medical evidence of record is insufficient to establish causal relationship between the claimed recurrence of disability and the accepted June 23, 2002 employment injury, the Board finds that appellant has not met her burden of proof.

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 appellant has not met her burden of proof to establish a recurrence of disability as of March 8, 2022, causally related to her accepted June 23, 2002 employment injury.

[21] *See id.*

[22] *See supra* note 11.

ORDER

IT IS HEREBY ORDERED THAT the August 20, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 24, 2025
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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