

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

CAROL LAUDONIO, *Applicant*

vs.

COUNTY OF SAN BERNARDINO, *Permissibly Self-Insured, Defendants*

**Adjudication Number: ADJ6680097
Los Angeles District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

The Appeals Board granted reconsideration to study the factual and legal issues. This is our Decision After Reconsideration.

In the Findings and Award of April 6, 2020, the Workers' Compensation Judge (WCJ) found that applicant, while employed as a child support officer by the County of San Bernardino during the period September 11, 2007 through September 11, 2008, sustained industrial injury to her wrists, elbows and psyche, but not to her neck or shoulders, that applicant's claim was settled by Stipulations and Award approved June 13, 2012, stipulating to injury only to the bilateral elbows and wrists resulting in 21% permanent disability, that the WCAB has jurisdiction to award benefits for the psychiatric injury under Labor Code Section 5410 because applicant filed a timely Petition to Reopen for New and Further Disability, and that applicant's Petition to Reopen is not barred by the Statute of Limitations under Labor Code Section 5405. The WCJ also found that due to a psychiatric injury sustained as a compensable consequence of applicant's original industrial injury, she has incurred new and further disability further disability to her psyche but not to her wrists, elbows, shoulders, or neck, and that the psyche injury has resulted in the need for further medical treatment and permanent disability of 54%, without apportionment.

Defendant filed a timely petition for reconsideration of the WCJ's decision. Defendant contends that under Labor Code section 5410, the WCAB lacks jurisdiction to award applicant benefits based on her claim of psychiatric injury, and that the WCJ erred in relying upon the medical reports of Dr. Nehorayan because they are not substantial evidence. Defendant further

contends that compensation for applicant's claimed compensable consequence psychiatric injury is barred by Labor Code section 4660.1(c)(1).¹

Applicant filed an answer.

The WCJ submitted a Report and Recommendation ("Report").

In connection with defendant's contention that Dr. Nehorayan's reports are not substantial evidence that applicant sustained an industrial injury to her psyche as a compensable consequence of the original cumulative trauma injury ending September 2008, we have considered said contention and the contents of the WCJ's Report with respect thereto. Based on our review of the record, and for the reasons stated in said Report, which we adopt and incorporate except footnote two on page six, we reject defendant's contention and we will affirm the Findings and Award of April 6, 2020.²

We further note that in contending Dr. Nehorayan's reports are not substantial evidence, defendant improperly relies upon evidence that is not found in the record. At the same time, defendant also violates WCAB Rule 10945(b), which provides, in relevant part: "[e]very petition for reconsideration ... shall support its evidentiary statements by specific references to the record." (Cal. Code Regs., tit. 8, former § 10842(b), now § 10945(b) (eff. Jan. 1, 2020), emphasis added.) Rule 10945(b) then goes on to specify how references to the record must be made. Here, defendant not only violated Rule 10945(b), but failed to make even a reasonable effort to include specific citations to the record. Defendant cannot evade this responsibility and place the burden on the Appeals Board to discover where the evidence supporting the petition can be found in the record.

We further note, concerning the substantiality of Dr. Nehorayan's psychiatric reports, that defendant presented no psychiatric medical opinion in rebuttal, and it is well-established that the relevant and considered opinion of one physician may constitute substantial evidence. (*Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525].)

¹ The introduction to section 4660.1 states, "[t]his section applies to injuries occurring on or after January 1, 2013." With exceptions not at issue here, subparagraph (c)(1) states, "the impairment ratings for sleep dysfunction, sexual dysfunction, or psychiatric disorder, or any combination thereof, arising out of a compensable physical injury shall not increase. This section does not limit the ability of an injured employee to obtain treatment for sleep dysfunction, sexual dysfunction, or psychiatric disorder, if any, that are a consequence of an industrial injury."

² To the extent defendant contends Dr. Nehorayan's medical opinion is not substantial evidence on the issue of apportionment of psychiatric disability, we reject the contention because defendant has the burden of proof on apportionment but failed to present any evidence of it. (*Kopping v. Workers' Comp. Appeals Bd.* (2006) 142 Cal.App.4th 1099, 1114 [71 Cal.Comp.Cases 1229].)

In reference to defendant's contention that compensation for applicant's claimed compensable consequence psychiatric injury is barred by Labor Code section 4660.1(c)(1), we agree with the WCJ that the statute is inapplicable because it applies to injuries occurring on or after January 1, 2013. Here, the psychiatric injury in question relates back to the date of cumulative trauma injury ending September 2008.

We turn to defendant's contention that the WCAB does not have jurisdiction to entertain applicant's Petition to Reopen for New and Further Disability, because it was filed beyond the five year period set forth in Labor Code section 5410. For the reasons discussed below, we do not find merit in this contention.

Where the WCAB has previously awarded temporary disability benefits (for instance), the WCAB has jurisdiction to award additional temporary disability benefits only if a petition to reopen (Lab. Code, §§ 5803, 5804) or petition for new and further disability (Lab. Code, § 5410) is filed within five years of the date of injury. (*Nickelsberg v. Workers' Comp. Appeals Bd.* (1991) 54 Cal.3d 288, 301–302 [56 Cal.Comp.Cases 476]; *Sarabi v. Workers' Comp. Appeals Bd.* (2007) 151 Cal.App.4th 920, 925 [72 Cal.Comp.Cases 778] (“*Sarabi*”); *Hartsuiker v. Workers' Comp. Appeals Bd.* (1993) 12 Cal.App.4th 209 [58 Cal.Comp.Cases 19].)

In this case, there is no question that applicant filed a timely Petition to Reopen for New and Further Disability, because at the first trial hearing of April 13, 2016, the parties stipulated that applicant did so on August 28, 2013. In that Petition, applicant alleged that she sustained new and further disability to her bilateral wrists, bilateral elbows, bilateral shoulders and neck. At trial on April 13, 2016, the parties likewise stipulated that applicant filed an Amended Application for Adjudication of Claim dated January 16, 2015, alleging that she sustained an industrial injury to her psyche.

However, defendant contends that because the Amended Application specifically alleging psychiatric injury was filed more than five years after the date of the original cumulative trauma injury ending September 11, 2008, the Amended Application is barred pursuant to Labor Code section 5410.

We disagree. Defendant's contention rests on the assumption that in order for applicant's Petition to Reopen for New and Further Disability to be considered timely, it must have included a specific allegation of psychiatric injury or disability. Not so. As the Court of Appeal explained in *Sarabi*, very broad or general petitions are sufficient to preserve the WCAB's jurisdiction.

(*Sarabi, supra*, 151 Cal.App.4th at 925-926, citing *Bland v. Workers' Comp. Appeals Bd.* (1970) 3 Cal.3d 324, 329 [in light of the strong policy in favor of liberal treatment of disability claims, petition to reopen asking the Board to take such steps as may be necessary to a redetermination of the matter is sufficient].)

In *Sarabi*, the petition to reopen was deemed timely and sufficient because it cited Labor Code sections 5410 and 5803, alleged a “change” in the injured employee’s condition, and requested further temporary disability benefits. (See also, *CMIS/Springfield Ins. Co. v. Workers' Compensation Appeals Bd. (Guillen)* (2006) 71 Cal.Comp.Cases 274 (writ den.).)

In this case, applicant’s “Petition to Reopen for New and Further Disability/Good Cause per Labor Code 5410 and 5803” was timely and sufficient because it alleged that her “medical condition has worsened, resulting in additional permanent disability and ongoing need for medical treatment.” The petition also claimed “additional body parts, shoulders, neck.”

Finally, we observe it is the dissent’s view that applicant’s Petition to Reopen for Good Cause/New and Further Disability should be denied because it is not supported by evidence that applicant suffered psychiatric injury or new and further disability within five years from the date of the original cumulative trauma injury. We further observe that defendant’s petition for reconsideration fails to specifically raise this contention, which constitutes a waiver pursuant to Labor Code section 5904. Nonetheless, we do not hesitate to further address the issue.

In *Applied Materials v. Workers' Comp. Appeals Bd.* (2021) 64 Cal.App.5th 1042, 1080 [86 Cal.Comp.Cases 331], the Court of Appeal just recently addressed the question of “new and further disability,” as follows:

To recover additional benefits, the injured worker must not only file a timely petition to reopen but must also have suffered a “new and further disability” within that five-year period, unless there is otherwise “good cause” to reopen the prior award. (*Sarabi, supra*, 151 Cal.App.4th at p. 926.) An injured worker cannot confer jurisdiction on the WCAB by filing a petition to reopen before the five-year period has expired for anticipated new and further disability that may occur after the five-year limitation period has run. (*Ibid.*) “New and further disability” means disability resulting from *some demonstrable change in the employee's condition*, including a gradual increase in disability, a recurrence of TD, a new need for medical treatment, or the change of a temporary disability into a permanent disability. (*Ibid.*)

(64 Cal.App.5th at 1080, italics added.)

In the instant case, we believe there is evidence of a demonstrable change in applicant's condition within the five year period following the cumulative trauma injury ending in September 2008. On page three of Dr. Nehorayan's report dated April 21, 2015 (exhibit 4), applicant reported to the doctor that her psychological problems *had been going on for years*, that Dr. Amin tried to get her a referral to a psychiatrist when *he was initially evaluating her but the insurance company refused to acknowledge her psychological condition*, and that the same was true with other doctors she was seeing, including Dr. Sadler. (Italics added.) Further, on page two of Dr. Nehorayan's report dated February 9, 2017 report (exhibit 11), the doctor includes a record review showing that Dr. Amin reported in his orthopedic permanent and stationary report dated February 2, 2012, i.e., before expiration of the five years in question, that applicant had "post-traumatic insomnia secondary to chronic pain causally related to the patient's continuous trauma industrial injury on a more-probable-than-not basis."

We are persuaded that the above references in Dr. Nehorayan's reports to psychological or psychiatric symptoms show a demonstrable change in applicant's condition within the five year period following the industrial cumulative trauma ending September 2008.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the Findings and Award of April 6, 2020 is **AFFIRMED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

I DISSENT. (See attached Dissenting Opinion.)

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 10, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**CAROL LAUDONIO
GLAUBER BERENSON & VEGO
HALLETT EMERICK WELLS & SAREEN**

JTL/bea

I certify that I affixed the official seal of
the Workers' Compensation Appeals
Board to this original decision on this date.
CS

DISSENTING OPINION OF COMMISSIONER RAZO

I agree that applicant filed a timely Petition to Reopen, but it is not supported by evidence of psychiatric treatment or disability that arose before expiration of five years following the original cumulative trauma. Therefore, I dissent.

The majority correctly recognizes that an injured worker cannot confer jurisdiction on the WCAB by filing a petition to reopen before the five-year period has expired, for anticipated new and further disability that may occur after the five-year limitation period has run. (*Sarabi v. Workers' Comp. Appeals Bd.* (2007) 151 Cal.App.4th 920, 926 [72 Cal.Comp.Cases 778].)

In this case, applicant sustained a cumulative trauma injury to her bilateral elbows and wrists during the period September 11, 2007 through September 11, 2008, and in 2012 she received an Award for this injury. On August 28, 2013, applicant filed a Petition to Reopen claiming injury to "additional body parts, shoulders, neck." It was not until January 16, 2015 that applicant filed an Amended Application for Adjudication of Claim, alleging that she sustained an industrial injury to her psyche.

In my review of the record, I observe that the first evidence of applicant developing psychiatric symptoms related to the original cumulative trauma is Dr. Nehorayan's report dated April 21, 2015. That date is more than a year and a half after the five years expired in September 2013. Before the latter date, there is no evidence of psychiatric complaints from applicant. Likewise, there is no evidence that she needed or received psychiatric treatment, or that she became temporarily disabled or incurred permanent psychiatric impairment. I note there is a Kaiser record dated March 21, 2014 that specifically addresses applicant's left knee pain and documents other physical complaints and conditions (exhibit H), but this record post-dates expiration of the five years and it includes no mention of any psychological or psychiatric complaints.

Based on the foregoing circumstances, I conclude that applicant's Petition to Reopen is defeated not because it was untimely filed, but because there is no substantial evidence that applicant required or received psychological or psychiatric treatment, or that she sustained temporary or permanent disability, before expiration of five years following the date of the original cumulative trauma injury. (*Fekkers v. Workers' Comp. Appeals Bd.* (2001) 67 Cal.Comp.Cases 92 (writ den.) [Despite timely filed petition to reopen, Board had no jurisdiction to award compensation for temporary disability arising more than five years after the original injury.])

For all the reasons stated above, I would rescind the WCJ's decision and substitute an order that applicant take nothing by reason of the Petition to Reopen for New and Further Disability she filed on August 28, 2013.



WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 10, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**CAROL LAUDONIO
GLAUBER BERENSON & VEGO
HALLETT EMERICK WELLS & SAREEN**

JTL/bea

I certify that I affixed the official seal of
the Workers' Compensation Appeals
Board to this original decision on this date.
CS

REPORT AND RECOMMENDATION ON
DEFENDANT'S PETITION FOR
RECONSIDERATION

I.

INTRODUCTION

Defendant filed this timely, verified petition for reconsideration, objecting to a Findings and Award, dated April 6, 2020. Applicant's claim was originally settled by Stipulations with Request for Award in 2012, and she subsequently filed a timely petition to reopen for new and further disability. It was found that Applicant did sustain new and further disability in that she sustained a psychiatric injury arising out of her industrial orthopedic injuries. Defendant contends the medical report upon which that finding was made is not substantial evidence, and that Applicant's psychiatric claim is barred by Labor Code Section 5410 (statute of Limitations)¹ For the reasons set forth herein, it is recommended that Defendant's petition be denied.

II.

STATEMENT OF FACTS

Applicant, Carol Laudonio, worked for the County of San Bernardino as a child support officer through 2008. She filed an initial Application for Adjudication of Claim claiming that while employed during the period September 11, 2007 through September 11, 2008, as a child support officer, by the County of San Bernardino, she sustained injury arising out of and in the course of employment to her upper extremities, shoulders and neck. Her claim was settled by Stipulations with Request for Award ("Stipulations "), which was approved on June 13, 2012. It was stipulated that Applicant sustained injury AOE/COE to her bilateral wrists and elbows only, resulting in 21% permanent disability.

Applicant filed a petition to reopen for new and further disability on August 28, 20 I 3, alleging her medical condition has worsened, resulting in additional permanent disability and need for medical treatment. The petition adds the shoulders

¹ All further statutory references are to the Labor Code.

and neck as additional body parts. On January 16, 2015, Applicant filed an amended Application adding psychiatric injury. Defendant disputes that there is new and further disability, and also argues the psychiatric injury is barred by Section 5410.

Trial on the petition to reopen commenced on April 13, 2016. Applicant submitted medical reports from her treating physician Charles Sadler, M.D. and psychiatrist Marc Nehorayan, M.D. Defendant submitted medical reports from orthopedic PQME Peter Sofia, M.D., but offered no rebuttal reports in psychiatry. Defendant also submitted two pages of Kaiser records dated March 21, 2014 (Defendant's Exhibit H). The records discuss Applicant's nonindustrial left knee injury and a host of other conditions but there is no mention of any psychiatric symptoms.

A Findings and Award issued on August 10, 2016. It was found that Applicant had new and further disability for the wrists and elbows, but not for the neck or shoulders, and that she also sustained a psychiatric injury as a compensable consequence of her physical injury. The findings were based on Dr. Sadler's reports, which were found to be more persuasive than those of Dr. Sofia, and on the un rebutted psychiatric report of Dr. Nehorayan.

Defendant filed a petition for reconsideration September 2, 2016 arguing that the reports of Dr. Sadler and Dr. Nehorayan were not substantial evidence. Upon further review, this WCJ agreed. The F&A was rescinded and the parties were ordered to further develop the record with supplemental reports from Dr. Sadler, Dr. Sofia and Dr. Nehorayan in accordance with *McDuffie v. Los Angeles County Metropolitan Transit Authority* (2002) 67 Cal. Comp. Cases 138 (WCAB en banc).

Supplemental reports from the above physicians were submitted at hearing on March 7, 2018, along with additional medical records. The matter was re-submitted for decision, but in reviewing the additional evidence, it was determined the medical record for the orthopedic injuries was still not substantial evidence, so it was ordered that Applicant be evaluated by Peter Newton, M.D. as a court-appointed "regular physician" under *McDuffie*.

The matter came on for trial again on March 4, 2020, at which time several reports from Dr. Newton and a copy of his deposition transcript were submitted as

exhibits. The case was re-submitted for decision.

The Findings and Award that is the subject of the present petition issued on April 6, 2020. It was found that Applicant did not sustain new and further disability for her wrists, elbows, shoulder s or neck based on Dr. Newton's reporting. Applicant does not challenge that finding. It was found that Applicant did sustain new and further disability in the form of a compensable psychiatric injury based on Dr. Nehorayan's opinion. It was further found that the psychiatric injury claim is not barred by the statute of limitations. Defendant objects to both of those findings. Defendant also raised the issue in its petition that Applicant is barred from obtaining increased psychiatric disability arising out of her orthopedic injuries pursuant to Section 4660.1(c)(1) (based on Defendant's contention that the date of injury for the psychiatric injury is essentially January 16, 2015, the date of the filing of the amended Application adding the psychiatric injury).

III.

DISCUSSION

A. New and Further Disability - Psychiatric Iniury:

The only issues for reconsideration are whether Applicant sustained an industrial psychiatric injury causing new and further disability, and if so, whether her entitlement to any increased permanent disability from that injury is barred.

The only medical evidence submitted on the psychiatric injury are the reports of Dr. Nehorayan dated April 21, 2015 and February 9, 2017. In the former, Dr. Nehorayan concluded Applicant did sustain a psychiatric injury as a compensable consequence of her industrial injuries. He diagnosed adjustment disorder with depressed and anxious mood, chronic, referencing the DSM IV, Code 309.28. (Applicant's Exhibit 4, p. 9.) He noted that Applicant's score on the Beck Depression Inventory was indicative of an individual experiencing a moderate amount of depression. (Id. at p. 7.) He did not find her to be clinically depressed or suffering from a major depressive episode. (Id. at p. 10.) Rather, he found that the nature of her condition is that she has had to struggle continuously in adjusting to the current circumstances associated with her physical condition and the physical pain. (Ibid.) He notes it is difficult for Applicant to exercise with her arms and hands, she is

unable to hold things for long periods of time, and she has difficulty with house chores and cooking. (Ibid.) He further notes that everything takes longer for her to complete, such as getting dressed and her standard activities of daily living. He notes that such things as brushing her hair, holding on to a blow dryer, or holding on to a brush with repetitive motions increases the pain she has to endure. (Ibid.) He found it is the difficulties in adjusting to the nature of her limitations rather than the pain itself that is more indicative of her sense of loss. (Id. at p.11.)

Applicant has had nonindustrial physical injuries as well, and Defendant was properly concerned that Dr. Nehorayan did not fully address the impact of those injuries on her depressive state. After Defendant filed its September 2, 2016 petition for reconsideration, the undersigned vacated the August 10, 2016 F&A and ordered that Dr. Nehorayan further address the effects of the nonindustrial injuries in a supplemental report. In his February 9, 2017 report, he explained that while Applicant has had physical injuries besides the wrist and elbow injuries, including knee injuries resulting in surgeries, those injuries did not result in psychological distress. (Applicant's Exhibit 11, p. 3.) He said the nonindustrial injuries would never have precluded Applicant from doing her job. (Ibid.) He noted she never had any psychiatric complaints until she began having difficulties with her left arm and her hand went numb. (Ibid.) He also noted that her activities of daily living, such as cooking, drying her hair, typing, etc. are not impacted by her neck or lower extremity injuries, but are significantly impacted by her work injuries. (Id. at pp. 3-4.) Dr. Nehorayan concluded that it would be too speculative to apportion any of her psychiatric disability to her nonindustrial injuries. (Id. at p. 3.) This WCJ found that opinion to be persuasive.

Based on Dr. Nehorayan's opinion, and the fact that Applicant had not been diagnosed with a DSM-IV diagnosis of psychiatric injury until after the Stipulations were entered into, it was found that Applicant sustained new and further disability in the form of a compensable psychiatric injury.²

B. Labor Code Sections 5410 and 4660.1(c)(1):

Labor Code Section 5410 does not bar Applicant's claim for psychiatric injury. Though Applicant filed an amended Application for the psyche claim more than five years from the date of injury, the filing simply added an additional body part for an existing date of injury - it did not allege a new and separate injury. The amended Application had the effect of including psychiatric injury to the petition to reopen which had been timely filed and for which the WCAB has jurisdiction.

Section 4660.1 (c)(1) also does not prevent a finding that Applicant is entitled to the increased permanent disability associated with her psychiatric injury. The psychiatric injury relates back to the original upper extremity injury with a date of injury ending on September 11, 2008. The Section 4660.1(c)(1) preclusion from increasing impairment ratings for psychiatric disorders arising out of compensable physical injuries only applies to injuries occurring on or after January 1, 2013.

C. Defendant's Contentions and WCJ's Response:

Defendant argues first of all that Dr. Nehorayan's diagnosis of adjustment disorder with depressed and anxious mode, does not encompass a compensable psychiatric injury in accordance with the American Psychiatric Association's Diagnostic and Statistical Manual Mental Disorders (4th or 5th Ed.) ("DSM-IV"). (Petition for Reconsideration, p. 7.) This WCJ disagrees. Adjustment disorders are recognized in the DSM-IV in a separate chapter beginning on page 623. Adjustment disorders are coded according to the subtype that best characterizes the predominant symptoms; the type associated with mixed anxiety and depressed mood are coded under 309.28, as indicated in Dr. Nehorayan's report.

² Defendant is correct that there is no record of Applicant receiving psychiatric treatment after her case was originally settled. (Petition for Reconsideration, p. 4.) Dr. Nehorayan has indicated that any orthopedic intervention that improves her physiological state would be the best psychiatric intervention and treatment to further her emotional improvement. (Applicant's Exhibit 4, p. 14.) The fact that she has not received any specific psychiatric treatment does not change this WCJ's opinion that she has sustained a psychiatric injury.

Defendant next argues that Dr. Nehorayan's finding that Applicant's mental state was unaffected by the host of nonindustrial physical injuries she has endured over the years is incorrect because there are "a boatload of Kaiser records" documenting Applicant's emotional stressors associated with the nonindustrial injuries. (Petition for Reconsideration, p. 3.) Defendant goes to great lengths to argue that point starting on page five of its petition. Defendant's argument is entirely unfounded. First of all, Defendant failed to submit at trial any Kaiser records to show Applicant had any emotional difficulties due to her nonindustrial injuries and medical conditions. As noted above, the only Kaiser record offered by Defendant was a two page record which discusses her numerous conditions but makes no mention of any psychiatric symptoms. Moreover, Dr. Newton's review of records in his December 9, 2018 report indicates Applicant's Kaiser records were submitted to him for review, along with other medical records for this injury and Applicant's nonindustrial injuries, comprising a total of 6,200 pages, and nowhere in Dr. Newton's summary of the records does it indicate Applicant had significant psychological symptoms associated with her nonindustrial injuries. (Court Exhibit X, pp. 2-55.) The records, which cover the period from 1992 through 2018, contain only a single diagnosis of depression on March 1, 2000, with no indication of its cause, duration or severity. (Id. at p. 3.) There is no indication that was an ongoing or chronic condition, because while the records extensively cover Applicant's industrial and nonindustrial injuries, there is no further mention of depression until Dr. Nehorayan's April 21, 2015 report (Id. at p. 52.)

Defendant's argument is also contradicted by its own acknowledgement on page four of the petition that Applicant never sought any kind of psychiatric treatment before, during or after the initial evaluation and consultation with Dr. Nehorayan in 2015. The argument that Applicant had significant psychological issues arising from her nonindustrial medical conditions is undermined by the fact that she never required any treatment for the alleged problems.

Defendant's other arguments regarding Sections 5410 and 4660.1 (c)(1) have been addressed above.

IV.

RECOMMENDATION

Based on the foregoing reasons, it is respectfully recommended that Defendant's petition for reconsideration be denied.

Dated: May 11, 2020

DOUGLAS A. WATKINS
Workers' Compensation Judge