

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

JUAN SALAZAR, *Applicant*

vs.

**REDLANDS UNIFIED SCHOOL DISTRICT, Permissibly Self-Insured;
KEENAN ASSOCIATES, *Defendants***

**Adjudication Numbers: ADJ10961264, ADJ13374764
Anaheim District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted reconsideration to allow us time to further study the factual and legal issues in this case. This is our Opinion and Decision After Reconsideration.¹

Defendant Redlands Unified School District seeks removal of the “Joint Findings; Order Vacating Submission and Orders Developing the Record” (F&O) issued by the workers’ compensation administrative law judge (WCJ) on December 2, 2024. There, the WCJ determined, in relevant part, that the reporting of qualified medical evaluator (QME) Clayton Patchett, M.D., was not substantial medical evidence and ordered the report stricken from the record. The WCJ ordered a replacement QME in orthopedic medicine and further determined that additional QME evaluations in neurology and internal medicine were required. The WCJ also ordered that the parties obtain a job analysis and an echocardiogram.

Defendant contends in its Petition for Removal (Petition) that there is no good cause for ordering an additional panel in neurology when headaches or neurological system problems were not included in applicant’s claims; that the existing internal medicine reporting constitutes substantial medical evidence; that there is no evidentiary basis for a job analysis or a new

¹ In our previous opinion granting reconsideration, we treated defendant’s removal petition as a petition for reconsideration and applied the removal standard to our review. We will continue to do so in this Opinion and Decision After Reconsideration.

echocardiogram; and that Dr. Patchett's reporting should not be stricken from the evidentiary record.

We did not receive an Answer from any party. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we grant removal and rescind the order appointing a replacement QME in internal medicine but otherwise deny the remainder of defendant's contentions.

We have considered the allegations in defendant's Petition and the contents of the WCJ's Report with respect thereto. Based on our review of the record, and for the reasons discussed below, as our Decision After Reconsideration, we will rescind the F&O and return this matter to the trial level for further proceedings consistent with this decision.

BACKGROUND

In Case No. ADJ10961264, applicant alleged injury to his hearing, neck, upper back, lower back, left wrist, left elbow, left hand, bilateral shoulders, left leg, head, constipation, psych, diabetes, and hypertension while employed as a lead custodian by defendant Redlands Unified School District from January 1, 2005 to March 16, 2015. In ADJ13374764, applicant sustained admitted injury to his left shoulder, left wrist and psyche while employed by defendant on January 8, 2015.

The parties have obtained QME reporting from Clayton Patchett, M.D., in orthopedics, Alan B. Ross M.D., in internal medicine, and Cynthia Davis, M.D., in audiology. Applicant's Primary Treating Physician (PTP) is Gary Baker, M.D.

On May 15, 2024, applicant filed a petition to strike the medical reporting of Dr. Patchett, with a request for a replacement QME. (Petition to Strike the Medical Reporting of Dr. Patchett, served May 15, 2024.) Applicant contended that Dr. Patchett failed to apply the correct legal standard of causation and failed to properly measure applicant's range of motion. (*Id.* at p. 3:6.) Applicant thus asserted that Dr. Patchett's report did not constitute substantial medical evidence and requested the WCJ "strike" the report and order an evaluation by a regular physician pursuant to Labor Code section 5701². (*Id.* at p. 1:19.) The petition did not reference section 4628. On the same date, applicant filed a petition to strike the medical reporting of Dr. Ross. (Petition to Strike the Medical Reporting of Dr. Ross, served May 15, 2024.)

² All section references are to the Labor Code, unless otherwise indicated.

On May 16, 2024, the WCJ issued orders deferring action on both petitions to strike, indicating that the requests would be heard with the trial on the case in chief.

Applicant filed a request on September 13, 2024, for an additional panel QME list in neurology and surgery, citing statements in the deposition transcripts of both Dr. Patchett and Dr. Davis that a neurologist was required to assess applicant's headaches.

On September 16, 2024, the parties proceeded to trial and framed for decision, in relevant part, applicant's petitions to strike the reporting of Drs. Ross and Patchett and for additional QME panels in neurology and general surgery. (Corrected Minutes of Hearing and Order of Consolidation, served September 19, 2024, at pp. 2-3.)

The WCJ heard testimony from applicant at continued trial on October 28, 2024, and ordered the matter submitted to the Disability Evaluation Unit (DEU) no later than December 2, 2024. (Minutes of Hearing and Summary of Evidence, served October 30, 2024, at p. 1:20.)

On December 2, 2024, the WCJ issued the F&O, vacating the submission and granting applicant's petition to strike Dr. Patchett's reports and depositions. (F&O, at pp. 2-3.) In the Joint Opinion on Decision (Opinion) issued on the same date, the WCJ explained that he was granting the petition to strike after considering sections 139.2 and 4628, and Workers' Compensation Appeals Board (WCAB) Rules 31.5 and 31.7 (Lab. Code, §§ 139.2, 4628; Cal. Code Regs., tit. 8, §§ 31.5, 31.7; Opinion, at pp. 4-6.) Regarding the finding of section 4628 deficiencies, the WCJ explained:

One critical factor to this Court is the record review. Under §4628 the doctor must personally review the medical records submitted. The doctor initially had Rosario Clemente review the records and prepare an excerpt of the records for his review. He state[d] he reviewed the records and the excerpt she produced. This to me is an insufficient [review] of the records, he needs to review the records in detail and draw his own conclusions therefrom, 10/7/22 report, Joint Exh. X1 page 35, and pursuant to §4628(c) must and indicate if he felt any additional inquiries were necessary and identify them in order to determine the relevant medical issues. There no indication that Ms. Clemente, MT has any specialized medical training or is capable of reviewing and summarizing the records. He also stated in his 5/23/18 report on page 37 he did not do the measurements or grip loss that someone else did. Dr. Patchett never disclosed who did the measurements. He also never addressed who did the record review, whether it was him or someone else. He stated on page 1 that he reviewed the records but did not disclose who produced the record review. Under §4628(e) the failure to address these issues in the report shall make the report inadmissible. The Court finds Dr. Patchett's report inadmissible for violating §4628.

(Opinion, at pp. 4-5.)

DISCUSSION

I.

Defendant challenges the WCJ's November 27, 2024 F&O, in which the WCJ struck the reports and deposition testimony of Dr. Patchett from evidence because they were not substantial medical evidence.

We first address the related issues of due process and notice. The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (Cal. Const., art. XIV, § 4 ["[T]he administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character(.)."]; *Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) In addition to this constitutional mandate, we are governed by the legislative mandate of section 3202 and the repeated admonitions of the California Supreme Court to construe workers' compensation laws liberally in favor of affording substantial justice to injured workers. (Lab. Code, § 3202; see also, e.g., *LeBoeuf v. Workers' Comp. Appeals Bd.* (1983) 34 Cal.3d 234, 241 [48 Cal.Comp.Cases 587]; *Webb v. Workers' Comp. Appeals Bd.* (1980) 28 Cal.3d 621 [45 Cal.Comp.Cases 1282]; *Veilleux v. Workers' Comp. Appeals Bd.* (1985) 175 Cal.App.3d 235, 241 [50 Cal.Comp.Cases 698].) It is for this reason that claims brought before the Appeals Board are "entitled to adjudication upon substance rather than upon formality of statement." (*Beveridge v. Industrial Acc. Com.* (1959) 175 Cal.App.2d 592, 598 [24 Cal.Comp.Cases 274].)

All parties to a workers' compensation proceeding retain the fundamental right to due process, including notice and an opportunity to be heard, and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805]; *Rea v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 625, 643 [70 Cal.Comp.Cases 312]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) A fair hearing includes the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and offer evidence in rebuttal. (See *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, at pp. 157-158 citing *Kaiser Co. v. Industrial Acc. Com. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin, supra*, 5 Cal.App.4th at p. 710.)

We conclude that here, the due process rights of the QME were implicated by the WCJ's finding that section 4628 was violated.

Section 4628 describes *mandatory* requirements for any physician signing a medical legal report including requirements that the physician personally conduct the examination; that the date and location of the evaluation be disclosed; that the evaluation comply with applicable laws; that the evaluation disclose the name and qualifications of any person who performed services, other than clerical services, in connection with the report; that the report describe in detail any variances with these procedures; and that the physician sign the report with a declaration under penalty of perjury that the contents of the report are true and correct. (Lab. Code, § 4628(a), (b), (j).) It requires the patient history and excerpting of medical records must be completed by the physician, or the physician must review the history and excerpts and must “make additional inquires and examinations” as necessary. (Lab. Code, § 4628(c).)

Section 4628 also imposes penalties for non-compliance affecting the substantive rights of the reporting physician. Subdivision (e) states that failure to comply with the requirements of section 4628 shall make the report *inadmissible* and shall eliminate any liability for payment of any medical-legal expenses. (Lab. Code, § 4628(e), italics added.) In addition, subdivisions (f), (g) and (h) address additional penalties for a physician’s knowing failure to comply with these requirements, including civil penalties of up to \$1000 per violation, contempt, and the possibility that the physician will be terminated, suspended or placed on probation as a QME under section 139.2. (Lab. Code, §§ 4628(f), (g), (h); 139.2.) Accordingly, a finding that a physician has not met the minimum report preparation and disclosure standards described in section 4628 may result in significant consequences for the reporting physician.

Our rules require that if a medical-legal report does not appear to comply with the requirements in section 4628, notice must be provided to the parties *and to the reporting physician* of the deficiencies in the reporting. (Cal. Code Regs., tit. 8, § 10670(b)(4).) After notice, the WCJ has discretion to allow the physician to address those deficiencies within a “reasonable” time period. (*Ibid.*)

Principles of due process further require notice to the reporting physician that their report may be deemed inadmissible because of the significant consequences for the physician that may result from a finding of inadmissibility under section 4628 or a finding that the physician’s report failed to meet the minimum standards for medical-legal reporting. These consequences include potential denial of reappointment on the basis that five prior reports during the most recent two-year period were “rejected” by the WCJ or the WCAB (Lab. Code, § 139.2(d)(2), (k)(5); Cal. Code Regs., tit. 8, § 10683); possible suspension or termination from future appointments as a QME

(Lab. Code, § 139.2(k)(5) and (l)); or, other “punitive measures” including placement on probation and reporting to the medical licensing board. (Lab. Code, § 139.2(l).)

Here, applicant’s petition to strike Dr. Patchett’s reporting did not raise the issue of section 4628 compliance, nor was section 4628 listed as a trial issue in the June 18, 2024 pretrial conference statement. (Petition to Strike, served May 15, 2024; Pre-trial Conference Statement, filed June 18, 2024.) Although the September 14, 2024 minutes of hearing indicate that one of the issues for trial was “Applicant’s petition to strike the medical reports of Dr. Ross and Dr. Patchett,” the minutes did not state, specifically, that the WCJ would be make that determination pursuant to section 4628. (Corrected Minutes of Hearing, served September 19, 2024; see also, Cal. Code Regs., tit. 8, § 10787(c)(3) [MOH must include “the issues and matters in controversy”].) Compliance with section 4628 was raised, for the first time, in the Opinion on Decision issued on December 2, 2024. (Opinion, at pp. 4-6.) Thus, there was no notice to any party that section 4628 would be considered by the WCJ or that it would be relied upon by the WCJ as the basis for finding Dr. Patchett’s reporting inadmissible. Dr. Patchett, specifically, was not provided with notice that his reporting could be stricken pursuant to section 4628, and as a result, had no opportunity to be heard on that issue before the order striking his reporting issued.

The WCJ’s decision thus abrogated the due process rights of both the parties and the reporting physician, since neither the parties nor Dr. Patchett were provided with notice that a determination under section 4628 would be made, or provided with an opportunity to be heard on that issue prior to the WCJ’s findings. (*Rea v. Workers’ Comp. Appeals Bd.*, *supra*, 127 Cal.App.4th at p. 643, citing *Gangwish*, *supra*, 89 Cal.App.4th at p. 1295 and *Rucker*, *supra*, 82 Cal.App.4th at p. 157.)

We also observe that the reporting physician, as a potential lien claimant or cost petitioner, was entitled to notice and an opportunity to address the contention that his reporting failed to comply with section 4628 or the “minimum standards prescribed by the provisions of rule 10682.” (Cal. Code Regs., tit. 8, §§ 10670, 10682, 10683.) The California Supreme Court, in *Charles J. Vacanti, M.D., Inc. v. State Comp. Ins. Fund* (2001) 24 Cal.4th 800, 811, explained that liens may be filed for medical-legal expense, and that medical lien holders are entitled to due process:

Medical providers that treat employee injuries covered by the WCA may file a lien claim for the costs of their services directly with the WCAB. (§§ 4903, 5300.) Any such provider is a “party in interest” to the WCAB proceeding (*Independence Indem. Co. v. Indus. Acc. Com.* (1935) 2 Cal.2d 397, 408 ...), and receives full due process rights, including an opportunity to be heard (see *Beverly Hills*

Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd. (1994) 26 Cal.App.4th 789, 803-804 ...).”

(*Ibid.*; see also *Beverly Hills Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd.*, *supra*, 26 Cal.App.4th at p. 803, citing *Fox v. Workers' Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196, 1204-1205 [“lien claimants are entitled to due process”].) A lien claimant, like a party, is entitled to notice and an opportunity to be heard prior to a claim being disallowed. (Cal. Code Regs., tit. 8, § 10702.) Thus, the reporting physician here is both a “party in interest” and a potential lien claimant and is entitled to notice and an opportunity to be heard before his medical-legal reporting is stricken.

Accordingly, we will rescind the F&O, including the finding that Dr. Patchett’s reporting is not substantial medical evidence and the order granting applicant’s petition to strike Dr. Patchett’s reporting, and return the matter to the trial court for further development of the record. Upon return, the WCJ should provide the parties and Dr. Patchett with notice and an opportunity to be heard regarding the pending petition to strike. The notice should identify the alleged deficiencies under section 4628, and the actions the parties or the reporting physician may take in response.

II.

In any matter in which a possible section 4628 deficiency is raised, the WCJ must determine if such a deficiency exists, and if so, whether the deficiency can be cured. Curing defects in medical-legal reporting furthers our constitutional mandate of expeditious resolution of claims and achieving substantial justice. (Cal. Const., art. XIV, § 4 [A complete system of workers’ compensation serves “shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character”].) “Substantial justice” is an exhortation that the workers’ compensation system must focus on the substance of justice, rather than on the arcana or minutiae of its administration. (See Lab. Code, § 4709 [“No informality in any proceeding . . . shall invalidate any order, decision, award, or rule made and filed as specified in this division.”].)

WCAB Rule 10670, subdivision (b)(4), provides that the Appeals Board may decline to receive in evidence any physician’s report that does not comply with section 4628 “unless good cause has been shown for the failure to comply and, after notice of non-compliance, compliance takes place within a reasonable period of time or within a time prescribed by the workers’ compensation judge.” (Cal. Code Regs., tit. 8, § 10670(b)(4).) Thus, Rule 10670 provides a mechanism for section 4628 compliance deficiencies to be cured.

Moreover, our jurisprudence in this area has consistently held that various deficiencies under section 4628 may be curable. (See, e.g., *City of Los Angeles v. Workers' Comp. Appeals Bd. (Webster)* (1998) 63 Cal.Comp.Cases 190 [writ denied] [subsequent reporting of the source of the actuarial data in the report sufficient to cure the section 4628 defect]; *Home Ins. Co. v. Workers' Comp. Appeals Bd. (Brest)* (1996) 61 Cal.Comp.Cases 1536 [writ denied] [physician's submission of a declaration and addendum sufficient to cure 4628 deficiencies]; *Canteen Corp. v. Workers' Comp. Appeals Bd. (Love)* (1997) 62 Cal.Comp.Cases 730 [writ denied] [physician's error in failing to include declaration under penalty of perjury in report was cured by filing amended report]; *Albertson's v. Workers' Comp. Appeals Bd. (Thompson)* (2003) 68 Cal.Comp.Cases 1369 [writ denied] [physician's report that did not include review or summary of the medical records was cured by filing supplemental report]; *Wilson v. Workers' Comp. Appeals Bd.* (1993) 58 Cal.Comp.Cases 784 [writ denied] [when physician was given notice and an opportunity to cure his knowing violation of section 4628(a), a hearing was held, and physician failed to cure the defect, the medical reporting was inadmissible]; *Gomez v. Ross Stores* (August 12, 2015, ADJ8326035) [2015 Cal. Wrk. Comp. P.D. LEXIS 494] [when report failed to include physician's signed declaration and the defect was not timely cured after the party was given an opportunity to do so, report was inadmissible]; *Ramirez v. Tanimura & Antle* (February 10, 2010, ADJ1358822 (FRE 0231034)) [2010 Cal. Wrk. Comp. P.D. LEXIS 67] [when supplemental doctor's report did not include the declaration required by section 4628(j), the matter was returned to the trial court to allow the physician an opportunity to cure the defect].)

Not all deficiencies under 4628 are curable, however. In *Scheffield Medical Group v. Workers' Comp. Appeals Bd.*, the Court of Appeal affirmed our decision in which we addressed consolidated lien proceedings in 107 cases and found that medical-legal reports that relied on the images taken by an unlicensed x-ray technician in violation of section 4628 were inadmissible. (*Scheffield Medical Group v. Workers' Comp. Appeals Bd.* (1999) 70 Cal.App.4th 868 [69 Cal.Comp.Cases 138]; see also, *Sonnier v. L.A. Unified Sch. Dist.* (July 22, 2021, ADJ10793298) [2021 Cal. Wrk. Comp. P.D. LEXIS 197] [When QME failed to disclose that individuals other than himself summarized the medical records, the medical-legal reports were inadmissible, as "there is no balancing of whether the failure to comply with [section 4628's] provisions affected the report's reliability..."].) In *Scheffield*, the WCJ found that the x-ray technician's role was an "intrinsic part of the diagnostic process" and found that the owner of the medical practice was not credible when he claimed not to know that the technician was unlicensed. (*Scheffield, supra*, at pp. 874-875.) We

affirmed the WCJ's decision, holding that the x-ray technician's function clearly placed her within the purview of section 4628, subdivision (b), and that the practice owner's apparent compliance with section 4628 was negated by his misrepresentation of the technician's qualifications. (*Id.* at p. 875.) The Court of Appeal, in upholding our findings, applied a strict scrutiny analysis to the question of admissibility of reports that failed to comply with section 4628. (*Id.*, at pp. 881-883.) The Court rejected petitioner's argument that no adequate notice was provided, holding that petitioner was well aware of the issue of the technician's qualifications since it had previously litigated that issue, and thus it waived any objection on due process grounds in the current matter. (*Id.*, at p. 884.) The Court found that substantial evidence on the record indicated that the technician was not properly identified in the medical-legal reports generated by petitioner medical group, which were thus inadmissible.

Here, unlike in *Scheffield*, there is no allegation of fraud or misrepresentation on the part of the reporting physician. The present matter is also distinguishable from *Scheffield* in terms of procedural posture and timing, since *Scheffield* was a consolidated lien proceeding, which occurred well after the underlying workers' compensation case was resolved. Thus, the factors precluding curability in *Scheffield* are inapplicable here. Further, unlike the cases cited above in which the reporting physician was offered the opportunity to cure the identified 4628 deficiency, here, it does not appear that Dr. Patchett was offered an opportunity to cure the section 4628 deficiencies before the WCJ issued the order striking the reporting.³ (Opinion, at pp. 4-5.)

Upon return of this matter to the trial court, Dr. Patchett should be provided with an opportunity to cure the identified deficiencies. (Cal. Code Regs., tit. 8, § 10832(a)(4).) The WCJ should then determine if the deficiencies have been cured. If the attempts to cure the deficiencies are unsuccessful, the WCJ must issue an NIT to all parties and to Dr. Patchett, providing them with an opportunity to be heard on the issue. Only after these steps have been taken may the WCJ find the medical-legal report inadmissible.

III.

We note that a determination that a physician's report is admissible, subsequent to a challenge pursuant to section 4628, is wholly distinct from the question of substantiality. An

³ We note that the WCJ addressed curability in the Opinion on Decision, but only as to whether Dr. Patchett would be willing to change his mind about his conclusions, based on reviewing a formal job analysis, applicant's testimony, or other new evidence. (Opinion, at pp. 5-6.) The Opinion did not include a discussion about whether Dr. Patchett could cure the three identified deficiencies pursuant to section 4628. (*Id.*, at pp. 4-5.)

inadmissible report is not evidence and cannot be considered. (Lab. Code § 4628(e); Cal. Code Regs., tit. 8, § 10670(b)(4).) In contrast, when a medical-legal report is found admissible, the WCJ must admit it into evidence and then determine the weight to accord that report, and whether it constitutes substantial medical evidence. (Cal. Code Regs., tit. 8, § 10682(c); Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310] [decisions by the Appeals Board must be supported by substantial evidence]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) To constitute substantial evidence “a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions.” (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) Thus, a finding that a report is admissible, after a section 4628 challenge, results in the medical-legal report being admitted into the record but does not determine the evidentiary weight of the reporting.

IV.

We also address defendant's contention that the order for an additional panel in neurology was made in error because neither headaches nor neurological system problems were alleged by applicant and because the report of the prior neurologist Dr. Kent provides no good cause for ordering an additional panel in neurology. (Petition, at pp. 5-7.) In the Report, the WCJ explained that defendant is incorrect, and “in fact the head has been a pled body part claimed to have been injured since the first amendment to the CT claim.” (Report, at p. 3.) The WCJ explained:

Dr. Kent performed numerous electro-diagnostic tests and issued his results. He reported on the specific injury only, he never addressed causation for the CT or the specific injury. He never addressed the head. He never addressed TTD, PD, future medical treatment, or apportionment, he only reported his findings. As the applicant had not been to a PQME in Neurology, and an unopposed petition was filed for a neurological PQME the court found the record needed to be developed on the injury to the head and ordered PQME in Neurology. This evaluation will determine if there is an injury to the head or what symptoms the applicant has, headaches, and what the cause is. This evaluation is needed to complete the record.

(Report, at p. 6.)

We concur with the WCJ's analysis that there was an adequate evidentiary basis supporting the order for an additional panel in neurology. Although we are rescinding the entirety of the F&O, upon return of this matter for further proceedings if the WCJ finds it necessary to issue an order

for additional panels, we suggest that applicant be ordered to make this request, rather than requiring a joint request. Because defendant has established that it opposes an order for a PQME panel in neurology, a joint request could be construed in future proceedings as an indication that defendant waived its objection.

V.

Lastly, we agree with defendant's contention that there was no need for an additional internal medicine panel, when Dr. Ross's report is substantial medical evidence. (Petition, at pp. 7-8.) The WCJ indicated that the order for a replacement panel QME in internal medicine was made in error. (Report, at p. 6.) The WCJ explained that his intention was for Dr. Ross to re-evaluate applicant after reviewing applicant's medication records, echocardiogram, and job analysis. (*Ibid.*) Upon return, this inadvertent order should be corrected.

Accordingly, as our Decision After Reconsideration, we rescind the December 2, 2024 F&O and return this matter to the trial level for further proceedings consistent with this decision.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Joint Findings, Order Vacating Submission and Orders Developing the Record issued by the WCJ on December 2, 2024 is **RESCINDED**, and that the matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 7, 2025

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

**JUAN SALAZAR
PEREZ LAW, APC
MICHAEL SULLIVAN & ASSOCIATES
CLAYTON PATCHETT, M.D.**

MB/ara

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