

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

VICTORIA ESCOBAR, *Applicant*

vs.

**PARKVIEW COMMUNITY HOSPITAL; permissibly self-insured,
administered by BETA HEALTHCARE GROUP, *Defendants***

**Adjudication Number: ADJ10790437
Riverside District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration of the February 9, 2026 Opinion and Decision After Reconsideration (ODAR), wherein the Workers' Compensation Appeals Board (WCAB) found in pertinent part, that: 1) Victoria Escobar, while employed during the period from November 1, 2011 through September 20, 2016 as a Charge Nurse, by Parkview Community Hospital sustained injury to her cervical spine and a dental injury arising out of and in the course of employment as a Charge Nurse; 2) lien claimant The Dental Trauma Center met its burden pursuant to Labor Code¹ section 4620(a) to show that a contested claim existed when applicant was evaluated by Dr. Schames beginning on January 9, 2018; 3) lien claimant The Dental Trauma Center met its burden under section 4621 to show its services were reasonable and necessary at the time they were provided beginning on January 9, 2018; 4) lien claimant The Dental Trauma Center is entitled to payment under section 4622 for services it provided beginning on January 9, 2018, and deferred the amount owed. The WCAB also deferred the issue of whether lien claimant is entitled to payment for medical treatment provided to applicant.

Defendant contends that the evidence supports the findings of fact of the WCJ that the applicant did not sustain dental injury on the basis that : 1) the Primary Treating Physician (PTP) Dr. Stokes failed to incorporate lien claimant Dr. Schames' reporting into his medical reports; 2) the reports from the PTP and lien claimant do not constitute substantial medical evidence; 3) the

¹ All further statutory references are to the Labor Code, unless otherwise noted.

WCAB panel erred in deferring the issue of lien claimant's entitlement to payment for the medical treatment services provided; 4) the WCAB panel erred in finding lien claimant is entitled to reimbursement for medical-legal services; and, 5) the lien filed by The Dental Trauma Center is procedurally invalid for failure to serve defense counsel with the lien at the time it was filed.

We have not received an Answer from lien claimant. Because defendant seeks reconsideration of a decision of the Appeals Board, the WCJ has not prepared a Report and Recommendation on Petition for Reconsideration.

We have considered the Petition for Reconsideration, and we have reviewed the record in this matter. As discussed in our ODAR, which we adopt and incorporate, and for the reasons set forth below, we will deny reconsideration.

BACKGROUND

The relevant factual background is set forth in our ODAR as follows:

Applicant claimed cumulative injury to multiple body parts while employed by defendant during the period from November 1, 2011, to September 20, 2016.

On October 13, 2016, defendant denied applicant's psychiatric claim based on a good faith personal action pursuant to Labor Code 3208.3 and lack of medical evidence. (Exhibit B, 10/13/2016.) At this point, applicant's claim became contested.

On November 17, 2016, applicant had an initial visit with her Primary Treating Physician (PTP), orthopedic surgeon Edward G. Stokes, M.D. In his initial report, Dr. Stokes stated, applicant had complaints about frequent pain in her head, shoulders, neck and lower [*sic*] back. (Exhibit 3, 11/17/2016, p. 4.) Applicant also complained about difficulty falling asleep due to pain, waking during the night due to pain, dizziness, headaches, decreased muscle mass and strength, numbness with pain, and grinding and locking of jaws. (Exhibit 3, 11/17/2016, pp. 4-5.) Dr. Stokes requested authorization for a dental specialist due to applicant's grinding of her teeth. (Exhibit 3, 11/17/2016, pp. 11, 12.) The report states, "applicant takes Ibuprofen (Motrin) for pain, 800 mg, #90, 1 tablet 3 times per day and finds it helpful (Take 1 tab every 8 hours.)" Exhibit 3, 11/17/2016, p.5.)

On December 29, 2016, applicant had a follow-up visit with Dr. Stokes. The PR-2 form states, ". . . 18. G47.63 – Sleep related bruxism; teeth grinding deferred to appropriate specialist (new diagnosis)." (Exhibit 4, 12/29/2016, p. 7.)

On January 30, 2017, applicant filed an Application for Adjudication of Claim (Application) claiming cumulative injury to multiple body parts including teeth while employed by defendant from November 1, 2011, to September 20,

2016. (Application For Adjudication, 1/30/2017.) Paragraph 9 of the Application for Adjudication states, “This application is filed because of a disagreement regarding liability for: Temporary disability indemnity, Reimbursement for medical expense, Medical treatment, Compensation at proper rate, Permanent disability indemnity, Rehabilitation, Supplemental Job Displacement/Return To Work, Other (Specify) ALL BENEFITS; 132A.”

On March 9, 2017, May 4, 2017, and October 19, 2017, applicant had follow-up visits with Dr. Stokes and after each appointment he issued PR-2’s, which state, “I am continuing to request authorization for a dental specialist due to grinding of teeth with Dr. Schames.” (Exhibit 5, Exhibit 6, Exhibit 7, March 9, 2017, May 4, 2017, October 19, 2017, all on p. 7.)

On January 9, 2018, Mayer Schames, D.D.S., one of the providers of The Dental Trauma Center examined applicant and issued an “Initial Report In The Field Of Dentistry And Request For Authorization (RFA)” following his examination of applicant. He stated,

. . . .Ms. Escobar finds that in response to her industrial related orthopedic pain, she has developed emotional stressors. The patient finds she is clenching her teeth and bracing her facial musculature not only in response to her orthopedic pain, but also in response to the resultant emotional stressors experienced.

(Exhibit 11, 1/9/2018, p.11.)

Dr. Schames then concluded that:

With reasonable medical probability, the myofascial pain of the facial musculature was caused and/or contributed to by Ms. Escobar’s bruxism in response to her industrial pain and/or emotional stressors.

Even though Ms. Escobar objectively presents with industrial related facial muscular problems; however, due to the chronicity of the facial pain and the continued Bruxism, Ms. Escobar’s facial pain has evolved into having Trigeminal Neuralgic I Neuropathic components to her facial pain.

Thus, the medications of Ibuprofen and Aleve taken by Ms. Escobar on an industrial basis are, with reasonable medical probability, causing and/or contributing to the patient’s Xerostomia condition, which in effect is contributing to Ms. Escobar’s aggravated Periodontal Disease and dental decay.

As discussed in the enclosed scientific literature attached hereto, even if Ms. Escobar had prior Periodontal Disease, there are numerous other industrially related factors that with reasonable medical probability, at the very least, would be contributing to the aggravation, acceleration and/or lighting up of any prior Periodontal Disease/inflammation.

The scientific literature has well documented that Periodontal Disease can be contributed to by stress, loss of sleep, cortisol production because of pain, and that bruxism itself also contributes to Periodontal Disease and inflammation.

Ms. Escobar injured her cervical area on an industrial basis. Even though a latency period may have occurred since the original industrial injury, the cervical nerve damage can cause facial problems to occur at a later date.

There were objective classical textbook referral patterns of pain from the upper quadrant/cervical musculature referring pain into the facial areas which caused or aggravated the facial myofascial pain, headaches, Bruxism, and resultant TMJ Disorder/Inflammation.

Subsequent to the industrial exposure, Ms. Escobar developed orthopedic pain and resultant emotional stressors. It is with reasonable medical probability that Ms. Escobar would be clenching and bracing her facial muscles in response to the industrial pain and industrial related emotional stressors.

It is my opinion that, with reasonable medical probability, this patient's presenting complaints and clinical symptoms in my area of expertise were caused or aggravated on an industrial basis.

(Exhibit 11, 1/9/2018 pp. 12-15, bold and italics in original omitted.)

On February 6, 2018, panel qualified medical evaluator (PQME) Alex H. Etemad, M.D., performed a medical-legal examination of applicant. Dr. Etemad issued a report and mentions in his report that applicant was referred to to Dr. Mayer Schames, D.D.S for oral medical care.

On February 14, 2018, defendant issued its first objection followed by three additional objections to Dr. Schames' requests for treatment. (Exhibits G, H, I and J, 2/14/2018) On the grounds that a liability decision was still pending, defendant continued to defer the requests for authorization from Dr. Schames.

On March 22, 2018, applicant had a follow-up visit with Dr. Stokes, and he issued a PR-2 which discusses applicant's use of the mouth guards Dr. Schames made for applicant to relieve her bruxism. (Exhibit 10, March 22, 2018, p. 2.)

On October 9, 2018, defendant accepted liability for injury to the cervical spine only. (Exhibit D, 10/9/2018.)

On April 16, 2019, lien claimant filed a lien for its services.

On March 12, 2020, the case in chief was resolved by way of a Compromise and Release (C&R). Paragraph 9 of the Compromise and Release stated in pertinent part that liability was only accepted for the body part of injury to the cervical spine, and that “the additional body parts of psyche, internal and teeth are also dismissed by applicant.”

On May 12, 2021, lien claimant and defendant proceeded to trial on the lien of Dental Trauma Center.

On June 21, 2021, the WCJ issued the F&O.

On July 7, 2021, lien claimant filed a Petition for Reconsideration. (ODAR, at pp. 2-5.)

On July 22, 2021, the WCJ issued a Report & Recommendation on Petition for Reconsideration recommending that the Petition is denied.

On August 4, 2021, the Workers’ Compensation Appeals Board (WCAB) granted reconsideration of the WCJ’s June 21, 2021 F&O on our own motion to further study the factual and legal issues presented therein.

On February 9, 2026, we issued our ODAR, substituting a finding of fact wherein we found that applicant did sustain a dental injury arising out of and in the course of employment based on the substantial medical evidence and reporting of Dr. Mayer Schames, D.D.S., and that the services provided were reasonable and necessary. (ODAR, p. 10.)

On March 6, 2026, defendant filed a Petition for Reconsideration.

DISCUSSION

I.

Former section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

(a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on March 9, 2026, and 60 days from the date of transmission is May 8, 2026. This decision is issued by or on May 8, 2026, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, because the Petition for Reconsideration involves a decision of the Appeals Board, no Report was prepared by the WCJ, and no other notice to the parties of the transmission of the case to the Appeals Board was provided by the district office. Thus, we conclude that the parties were not provided with the notice of transmission required by section 5909(b)(1). While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on March 9, 2026.

II.

We first consider the issue of defendant’s liability for applicant’s medical treatment by Dr. Schames.

As previously set forth in our ODAR, it is well established that decisions by the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen’s Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *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).) “Medical reports and opinions are not substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, on inadequate medical histories and examinations, or on incorrect legal theories. Medical opinion also fails to support the Board’s findings if it is based on surmise, speculation, conjecture or guess.” (*Heggin v. Workmen’s Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].)

The employee bears the burden of proving injury AOE/COE by a preponderance of the evidence. (*South Coast Framing v. Workers’ Comp. Appeals Bd. (Clark)* (2015) 61 Cal.4th 291, 297-298, 302 [80 Cal.Comp.Cases 489]; Lab. Code, §§ 3600(a) & 3202.5.) The Supreme Court of California has long held that an employee need only show that the “proof of industrial causation is reasonably probable, although not certain or ‘convincing.’” (*McAllister v. Workmen’s Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 413 [33 Cal.Comp.Cases 660].) “That burden manifestly does not require the applicant to prove causation by scientific certainty.” (*Rosas v. Workers’ Comp. Appeals Bd.* (1993) 16 Cal.App.4th 1692, 1701 [58 Cal.Comp.Cases 313].)

Defendant asserts that the evidence supports the WCJ’s F&O wherein he found that applicant did not sustain a dental injury arising out of and in the course of employment. As we stated in our opinion, based on our review, there is substantial medical evidence to find that applicant did sustain a dental injury arising out of and in the course of employment based on the reporting of Dr. Schames.

Dr. Schames examined applicant on January 9, 2018, and summarized the history of her injury. He stated that: “With reasonable medical probability, the myofascial pain of the facial musculature was caused and/or contributed to by Ms. Escobar’s bruxism in response to her industrial pain and/or emotional stressors”, and concluded that: “It is my opinion that, with reasonable medical probability, this patient’s presenting complaints and clinical symptoms in my area of expertise were caused or aggravated on an industrial basis.” (Exhibit 11, 1/9/18, pp. 14-15.) We find no basis upon which to disturb that finding.

Additionally, Dr. Stokes' initial report states, "I am requesting authorization for dental specialist due to teeth grinding." (Exhibit 3, 11/17/2016, p. 12.) Dr. Stokes made the same request for a dental specialist four more times. (Exhibits 4, 5, 6, and 7, 12/29/2016, 3/9/2017, 5/4/2017, 10/19/2017 at p. 7.) The fact that PTP Dr. Stokes fails to incorporate Dr. Schames' reporting does not, as asserted by defendant render the record as lacking in substantial medical evidence.

Defendant cites to the case of *Guevara v. Life Long Learning* (2019) 2019 Cal.Wrk.Comp. P.D. Lexis 366 in support of its position, however, the facts in *Guevara* are distinguishable. In *Guevara*, applicant was not referred for a dental evaluation by any of her treating physicians and there was no mention of any dental problems unlike the instant matter, where PTP Dr. Stokes, in his initial comprehensive evaluation report dated November 17, 2016, issued the initial Request For Authorization (RFA) to defendant for applicant to be evaluated by a dental specialist due to grinding of the teeth. (Exhibit 3, 11/17/2016 at p. 12.) This request was followed by four additional RFA's on December 29, 2016, March 9, 2017, May 4, 2017, and October 19, 2017 issued by PTP Dr. Stokes, and the RFA's issued by Dr. Stokes dated March 9, 2017, May 4, 2017, and October 19, 2017, specifically reference a request for referral to Dr. Schames. (Exhibits 4, 5, 6, and 7, 12/29/2016, 3/9/2017, 5/4/2017, 10/19/2017 at p. 7.)

Petitioner further disputes the finding that lien claimant met its burden to show the services of Dental Trauma Center were reasonable and necessary at the time they were provided.

As previously discussed in our ODAR, while Dr. Schames acknowledged the likelihood that applicant's dental issues were pre-existing, he stated in his report that:

Subsequent to the industrial exposure, Ms. Escobar developed orthopedic pain and resultant emotional stressors. It is with reasonable medical probability that Ms. Escobar would be clenching and bracing her facial muscles in response to the industrial pain and industrial related emotional stressors.

Ms. Escobar's caused or aggravated Periodontal Disease has understandably appeared at a later time than the original industrial injury, given that these processes are derivative consequences of Ms. Escobar's injuries and the Ibuprofen and Aleve medications they were and are taking on an industrial basis.

(Exhibit 11, 1/9/18, at p. 14.)

An employer is required to provide medical treatment "that is reasonably required to cure or relieve the injured worker from the effects of his or her injury..." (Lab. Code, § 4600) *There is no apportionment of the expenses of medical treatment. If the need for medical treatment is partially caused by applicant's industrial injury, the employer must pay all of the injured worker's*

reasonable medical expenses. (See *Granado v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 399 [33 Cal.Comp.Cases 647] italics added.)

“[F]or the purposes of the causation requirement in workers’ compensation, it is sufficient if the connection between work and the injury be a contributing cause of the injury ... [Citation.]” (*Clark, supra*, 61 Cal.4th at p. 298.) Further, “*the acceleration, aggravation or ‘lighting up’ of a preexisting disease is an injury in the occupation causing the same.*” (*Id.* at p. 301, emphasis added.) Here, based upon the existing record, we find sufficient causation of injury acceleration and aggravation of the pre-existing dental issues. Section 4600, “consistently has been interpreted to require the employer to pay for all medical treatment once it has been established that an industrial injury contributed to an employee’s need for it.” (See *Hikida v. Workers’ Comp. Appeals Bd.* (2017) 12 Cal.App.5th 1249, 1261 [82 Cal.Comp.Cases 679]; *Braewood Convalescent Hospital v. Worker’s Comp. Appeals Bd. (Bolton)* (1983) 34 Cal.3d 159, 165 [48 Cal.Comp.Cases 566] [employee suffering from pre-existing condition later disabled by industrial injury was entitled to treatment even for a non-industrial condition that was required to cure or relieve effects of industrial injury].)

Finally, petitioner asserts that the panel erred in deferring the issue of lien claimant’s entitlement to payment for the medical services provided, and that the WCJ found that “Defendant properly deferred Utilization Review pending liability for treatment of the condition for which treatment was recommended.” (Petition, p. 10.)

While our Opinion indicates that the WCJ did not consider this issue “in the first instance”, we agree that the WCJ found that defendant properly deferred utilization review pending a determination of liability, but the WCJ further denied industrial injury or liability of defendant for any of lien claimant’s services. Now that industrial injury is found, however, the issues we have deferred are both the entitlement to payment to lien claimant for medical treatment, as well as the amount owed for medical-legal services under section 4622 as of January 9, 2018, which is the date that applicant was evaluated by Dr. Schames. (ODAR, Findings of Fact numbers 2 and 5.)

As previously noted in our ODAR, applicant’s claim for industrial injury was a contested claim, and treatment was never authorized by defendant, despite multiple requests for authorization of same. Our findings defer the amounts owed with respect to such treatment. Upon return to the trial level, the parties should consider a meet and confer to determine if they are able to informally resolve the amounts claimed and due prior to either a retrospective UR or a return to the WCJ to determine the reasonable value of the services. We agree that based upon the submitted evidence, and per section 9792.9.1(b)(2), any amounts owed would be subject to such retrospective review.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 8, 2026

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

**LAW OFFICE OF SAAM AHMADINIA
LAW OFFICE OF STEPHANIE M. SMITH**

DLM/oo

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