

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

**BRIAN YAGER, *Applicant***

**vs.**

**STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS &  
REHABILITATION; STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ11850265  
Salinas District Office**

**OPINION AND DECISION AFTER  
RECONSIDERATION**

We previously granted reconsideration to provide an opportunity to further study the legal and factual issues raised by the Petition for Reconsideration filed by defendants State of California, Department of Corrections & Rehabilitation, and State Compensation Insurance Fund. This is our Opinion and Decision After Reconsideration.

Defendants seek reconsideration of the November 9, 2021 Findings and Award, wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that applicant sustained industrial permanent disability of 59%.

Defendants contend that the WCJ erroneously added the permanent disabilities of applicant's lower extremity to applicant's upper extremity and neck when they should have been combined using the Combined Values Chart (CVC).

We received an answer from applicant Brian Yager, who contends that the WCJ's addition of his lower extremity permanent disability to his upper extremity and neck permanent disabilities is supported by the report of Robert L. Stone, D.C., which is substantial evidence. WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, the Answer, the contents of the Report, and we have reviewed the record in this matter. Based on the Report, which we adopt and incorporate, we deny reconsideration.

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that defendants State of California, Department of Corrections & Rehabilitation, and State Compensation Insurance Fund's Petition for Reconsideration of the November 9, 2021 Findings and Award is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ CRAIG L. SNELLINGS, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**April 28, 2026**

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

**BRIAN YAGER  
DILLES LAW GROUP  
STATE COMPENSATION INSURANCE FUND**

**LSM/ara**

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

# REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

## I

### INTRODUCTION

Defendant has filed a timely, verified Petition for Reconsideration from the Findings & Award of 11/09/2021, listing the usual statutory grounds. The issue is whether QME Dr. Stone's opinion, that the neck and upper extremity impairments should be combined with the lower extremity impairments by simple addition, qualifies as substantial medical evidence. I found that Dr. Stone's opinion in this regard did so qualify. The Petition for Reconsideration is without merit and should be denied.

## II

### STATE OF MATERIAL FACTS

Applicant, Brian Yager, born [ ], while employed during a period of alleged cumulative trauma ending 9/15/18 as a correctional officer by the State of California, Department of Corrections and Rehabilitation, sustained injury AOE/COE to his cervical spine, thoracic spine, bilateral shoulders, bilateral feet, and right hip. (MOH/SOE 10/14/21, p. 2)

Dr. Robert Stone was selected as the Qualified Medical Evaluator. He submitted six reports. He examined the injured worker three times. In his supplemental report dated March 17, 2021 (Ex. J-2, pp.4, 5 and 6), Dr. Stone analyzed the issue raised by Petitioner, i.e., how the multiple impairments caused by the injury should be combined:

*The upper extremity impairments of reaching overhead, pulling, pushing, reaching and the limited range of motion of the shoulders are not limiting or overlapping with the lower extremity impairments which affect walking, running, climbing stairs, riding in a car, prolonged positions and other like activities. There is some mild overlap in activities such as sexual activities and typing/computer work, which require prolonged sitting and prolonged use of the upper extremities.*

*It is my opinion that the lack of significant overlap in ADLs and WRAs of the upper extremities/neck (which were combined) with the lower extremity WPI impairments (which were added) would yield a less accurate rating if they were simply combined. Since there is no possibility of impairment exceeding 100%, which was the purpose of combining impairments, the CVC should not be automatically applied. And in this particular case it is my opinion combining the lower extremity WPI ratings with the neck/shoulder WPI rating would be less accurate than adding them.*

### III DISCUSSION

The authors of the AMA Guides, 5th Edition, stated that the Combined Values Chart (CVC) was based on a formula that ensured that the summary value for multiple impairments would not exceed 100% Whole Person Impairment. They then stated:

*A scientific formula has not been established to indicate the best way to combine multiple impairments. Given the diversity of impairments and great variability inherent in combining multiple impairments, it is difficult to establish a formula that accounts for all situations. ...Other options are to combine (add, subtract, or multiply) multiple impairments based upon the extent to which they affect an individual's ability to perform activities of daily living. (AMA Guides, 5th Ed., pp. 9-10).*

Thus, under the Guides, there is no hard and fast method for combining the disabilities, multiple methods have been legitimately used, *based upon the extent to which they affect an individual's ability to perform activities of daily living*; and the physician can apply his skills and judgment to decide which method most accurately reflects the overall impairment. In *Athens Administrators v. WCAB (Kite)* (2013) 78 CCC 213 the Board acknowledged this standard, agreeing that the Guides provision for applying the CVT is rebuttable, with the caveat that the physician must explain and justify the physician's choice of method.

Defendant contends that Dr. Stone applied an incorrect legal standard, i.e., that addition should be used, because there is no possibility that 100% PD would be reached or exceeded in this case by addition. Dr. Stone correctly pointed out that the CVT was adopted for general application, in order to avoid the possibility that addition might result in a total impairment exceeding 100%, a scenario that would not happen in the present case. However, Dr. Stone's principal reason for applying the additive method was because the impairments caused by the neck and upper extremities did not overlap those caused by the lower extremities, and use of addition would produce a more accurate overall rating than would the CVC.

The use of the Combined Values Chart is not mandatory. Although the CVC is included in the PDRS, the writers of the PDRS did not mandate its use or even suggest it as the preferred method for combining multiple disabilities; all that is required is that the reporting physician sets forth a reasonable basis for selecting the additive method. Dr. Stone has complied with that requirement. Given the reason for creating the Combined Values Chart, explained on page 9 of the AMA Guides, an argument can be made that it need only be applied when the impairments would, in fact, exceed 100%, by use of the additive method. The present case clearly does not fall into that category.

I have relied on the opinions of Dr. Stone to support the findings on permanent disability and need for further medical treatment. The parties have agreed in their proposed ratings (Pre-trial Conference Statement, 8/18/21, p. 4) to the entirety of Dr. Stone's impairment determination, with the sole exception of how the upper body impairments should be combined with the lower extremity impairments. They agreed that if they are combined using the Combined Values Table

(CVT), the permanent disability is 51%. If they are combined using the additive method, the permanent disability is 59%. The additive method Dr. Stone properly employed supports the 59% PD rating.

**IV**  
**RECOMMENDATION**

I recommend that the Petition for Reconsideration be Denied.

Respectfully submitted,

**MICHAEL H. YOUNG**  
**Workers' Compensation/Administrative Law Judge**