STAFF’S ARGUMENT TO DENY THE PETITION FOR RECONSIDERATION

Respondent Dennis T. Martinez (Respondent) petitions the Board of Administration to reconsider its adoption of the Administrative Law Judge’s (ALJ) Proposed Decision dated August 25, 2017. For reasons discussed below, staff argues the Board deny the Petition and uphold its decision.

No new evidence has been presented by Respondent that would alter the analysis of the ALJ. The Proposed Decision that was adopted by the Board at the November 15, 2017, meeting was well reasoned and based on the credible evidence presented at hearing.

In the Petition for Reconsideration, Respondent states that he “strongly disagree[s]” with the findings of the ALJ, as set forth in the Decision. Respondent simply repeats his dissatisfaction with the Findings and Legal Conclusions of the ALJ. Respondent made his disagreement with the Proposed Decision known to the Board when the Proposed Decision was presented to and considered by the Board at its November 15, 2017 meeting. There is no new or different argument presented by Respondent.

Likewise, Respondent does not provide or refer to any new evidence. On page two of his Petition for Reconsideration, Respondent refers to medical reports from three physicians: Samuel Carlton, M.D., Kyle Swanson, M.D., and Daniel D’Amico, M.D. Copies of reports from Dr. Carlton were offered into evidence by Respondent as his Exhibit A, and the ALJ received such reports into the record, and reviewed and considered the contents of such reports. Copies of reports from Dr. Swanson were offered into evidence by Respondent as his Exhibit B, and the ALJ received such reports into the record, and reviewed and considered the contents of such reports. Copies of reports from Dr. D’Amico were offered into evidence by Respondent as his Exhibit C, and the ALJ received such reports into the record, and reviewed and considered the contents of such reports.

There is no basis for the Board to grant Respondent’s Petition for Reconsideration.

December 20, 2017

RORY J. COFFEY
Senior Attorney