ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Andrey Y. Andrsh (Respondent) was employed by California Medical Facility, California Department of Corrections and Rehabilitation (Respondent CDCR) as a Medical Technical Assistant (MTA). By virtue of this employment, Respondent is a state safety member of CalPERS.

In August 2020, Respondent applied for industrial disability retirement based on his orthopedic conditions (bilateral shoulders, elbows, wrists, neck, and back). CalPERS approved his application, and he was placed on disability retirement effective February 5, 2021.

On May 12, 2022, CalPERS notified Respondent that his retirement benefit was under review to determine if he continued to meet the qualifications to receive disability retirement benefits pursuant to Government Code section 21192.

As part of its review, CalPERS referred Respondent to Robert K. Henrichsen, M.D., a board-certified Orthopedic Surgeon, for an Independent Medical Examination (IME). Dr. Henrichsen interviewed Respondent, reviewed his work history and job description, and reviewed medical records. Dr. Henrichsen also performed an examination of Respondent and prepared a report summarizing his findings upon examination. Dr. Henrichsen opined that Respondent was no longer substantially incapacitated from performing the duties of an MTA for Respondent CDCR.

After reviewing all medical records and the IME reports, CalPERS determined that Respondent was no longer substantially incapacitated from performing the duties of an MTA. CalPERS informed Respondent of its determination that he is no longer eligible for industrial disability retirement and subject to reinstatement pursuant to Government Code section 21193.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings. A hearing was held on June 18 and August 18, 2025. Respondent was represented by counsel at the hearing. Respondent CDCR did not appear at the hearing.

At the hearing, Dr. Henrichsen testified in a manner consistent with his examination of Respondent and his IME report. Dr. Henrichsen observed Respondent to have "excellent muscle mass in in his legs, trunk, chest, shoulders, and also excellent muscle definition in his shoulders, neck, thoracic spine, lumbar spine, and both thighs." Dr. Henrichsen testified that Respondent's physique was "consistent with an individual that was working out for months or just recently stopped working out in the last four to six weeks."

Dr. Henrichsen did not observe atrophy and mostly symmetrical range of motion in Respondent's neck, back and shoulders, with mild asymmetry in his shoulder flexion and abduction. Dr. Henrichsen observed "a Popeye deformity from his biceps release inside the joint" but reported that Respondent's elbow flexion and extension strength

were normal when manually tested. Dr. Henrichsen testified that Respondent has “degenerative disease consistent with age.” He does not have “mechanical nerve impingement in his neck or low back by any imaging study” and his “entire spine is stable.”

Dr. Henrichsen testified that Respondent’s bilateral shoulder surgeries appeared to have been successful and "no provider determined that there was sufficient difficulty with either shoulder to have follow-up imaging of either shoulder.” Dr. Henrichsen testified that the different ranges of motion reported by different providers and Respondent’s significantly reduced shoulder range of motion during the IME were unsupported by the medical records.

Dr. Henrichsen opined that Respondent was putting forth reduced effort and that could be the reason for the reduced range of motion at his IME. Dr. Henrichsen pointed to Respondent’s physique to suggest that he can do more than he demonstrated during the IME, including exercise. Dr. Henrichsen also found the objective findings were not consistent with Respondent’s limitations. Dr. Henrichsen opined that Respondent did not have a substantial inability to perform the job duties of an MTA based on his orthopedic conditions.

Respondent testified at the hearing about his work history and injuries. Respondent described the typical duties he performed as an MTA. He testified that he would use his keys to turn a lock several hundred times per day and use his hands throughout the day to handle medications and administer injections. Over the course of his employment as an MTA, Respondent began to experience increasing pain in his wrists, and numbness in his hands and fingers. In early 2016, he was diagnosed with moderate right carpal tunnel syndrome. By early 2019, these symptoms worsened to the point that Respondent had trouble performing his job duties.

On July 16, 2019, Respondent was diagnosed with bilateral carpal tunnel syndrome. He was placed on temporary total disability status and taken off work. Respondent had a bilateral carpal tunnel release performed on January 19, 2021. Since then, Respondent continued to receive approximately monthly medical evaluations and conservative treatment for his orthopedic conditions, including a pain therapy program, pain medications, muscle relaxant medications, and injections in both hands. Respondent reported continuing pain and orthopedic symptoms to his medical providers.

Manijeh Ryan, M.D. testified at the hearing for Respondent. Dr. Ryan earned her medical degree in 1994 and practiced and trained in Iran and Canada. She has been licensed as a physician in California since 2011, and has been board-certified in physical medicine and rehabilitation, pain medicine, and brain injury medicine, since the early 2010’s. Dr. Ryan evaluated Respondent in her capacity as an Agreed Medical Examiner in Respondent’s workers compensation case. Dr. Ryan issued reports on 10 different occasions between July 5, 2016, and January 27, 2024.

Dr. Ryan reviewed the duties of an MTA and opined that Respondent is unable to respond quickly over uneven surfaces or to multiple levels separated by stairs, due to spinal and radiculopathy conditions seen on his lumbar and thoracic MRI’s. Dr. Ryan testified that Respondent does not have sufficient strength, agility, and endurance to

respond to emergency situations due to lack of strength in his legs based on his physical examination, lumbar MRI, and lower extremity electrodiagnostic testing results. Dr. Ryan further opined that muscle relaxant medication prescribed to Respondent may cause mental slowing and reduced agility. Dr. Ryan opined that Respondent cannot use his fingers and hands steadily or perform tasks requiring repetitive gripping or grasping due to decreased strength in hands from carpal tunnel syndrome.

Dr. Ryan emphasized that Respondent's limitations were evident in objective tests. She testified that a two-point discrimination testing showed nerve numbness in Respondent's upper extremities. Nerve conduction tests showed moderate delay in his median carpal tunnel nerve and 2024 nerve conduction testing shows radiculopathy. Dr. Ryan testified that although carpal tunnel release surgery generally yields good results, sometimes the nerves do not fully recover and there can be complications from the surgery itself.

After considering all the evidence introduced, as well as arguments by the parties at the hearing, the ALJ granted Respondent's appeal. The ALJ noted that both Dr. Ryan and Dr. Henrichsen were well-qualified experts, but he found Dr. Ryan's opinions more persuasive because they were supported by the opinions of other physicians. Dr. Ryan pointed to many objective findings to support her opinion that Respondent - after numerous industrial injuries and three surgeries involving both shoulders, his left elbow, and both hands, and ongoing pharmacological and other conservative treatments - did not have the capacity to perform the duties of an MTA. Moreover, Dr. Henrichsen's opinion that Respondent is too muscular to be incapacitated was not persuasive as evidence shows that Respondent was approximately 30 pounds heavier when he became a peace officer and was in excellent physical condition, suggesting that Respondent may have lost significant muscle mass since that time. The ALJ concluded that the evidence did not suggest that Respondent's orthopedic conditions have substantially improved since he was approved for disability retirement.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

January 20, 2026

Austa Wakily

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