ATTACHMENT C

RESPONDENT'S ARGUMENT REGARDING THE PETITION FOR RECONSIDERATION

BEFORE THE BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
In the Matter of the Application for Industrial Disability Retirement of
JOVEN B. AROMIN, Respondent
CalPERS Case No. 2024-0657 | OAH No. 2025010666
RESPONDENT'S ARGUMENT
For consideration at the November 18, 2026 Board meeting

1. My ability to do a few activities does not mean I can work a full nursing shift.

My job involves constant walking, frequent standing, bending, reaching, pushing and pulling, lifting and carrying, using stairs, and responding quickly when an emergency happens. These duties cannot always be postponed because I am in pain or my knee feels unstable. I do not believe the decision gave enough consideration to whether I can do these things for an eight-hour shift, five days a week. Being able to stand, walk a short distance, or perform a movement during an examination is not the same as being able to work safely for an entire shift. The Department's Physical Requirements specify constant walking on even and uneven surfaces; frequent standing, bending, twisting, reaching, pushing, pulling, grasping and carrying up to 50 pounds, with additional duties involving running, crawling, kneeling, climbing, squatting and carrying more than 50 pounds. I ask for a function-by-function assessment of frequency, endurance and safety, not just whether I can perform an isolated movement.

2. Dr. Heyrani's examination did not reflect what I go through every day.

As I recall, Dr. Nasser Heyrani examined me for approximately 30 minutes. I understand that the length of an examination alone does not decide whether a medical opinion is valid. My concern is that a short examination cannot show what happens to me after prolonged standing, walking, using stairs, or repeated physical activity. The decision itself discusses problems with my right knee and left shoulder, including knee instability and reduced shoulder motion and strength. I ask the Board to look carefully at how those findings were reconciled with the physical demands of my actual job. I ask the Board to compare the limited opportunity Dr. Heyrani had to observe me with the longitudinal treatment and surgical history documented by Dr. Livermore.

3. Legal Conclusion 7 conflicts with objective findings that require explanation.

Legal Conclusion 7 states that I did not present competent, objective medical evidence establishing permanent disability or substantial incapacity. Yet the decision itself describes right-knee instability and reduced motion, left-shoulder weakness and restricted motion, and abnormal imaging including rotator-cuff pathology. My knee required total replacement and later revision. These findings do not automatically prove the statutory standard, but I ask the Board to explain how they were reconciled with the constant and frequent physical demands of my position, and to reconsider Legal Conclusion 7 on the full record.

4. My knee problems were serious enough to require another replacement surgery.

I had my right total knee replacement in January 2023. I continued to have pain, looseness, and instability afterward. I did not recover the way I expected. Dr. Steven Nishiyama later evaluated my knee, and I underwent revision total knee replacement on July 15, 2026, two days after my administrative hearing. Workers' compensation authorization delays also affected when I could have the revision. I ask the Board to consider the revision surgery and the medical findings surrounding it, to the extent allowed, because they help explain the knee problems I had been reporting before the hearing. The surgery was already scheduled at the July 13 hearing, and the July 15 revision of all components actually occurred two days later. The August 14 postoperative note describes moderate pain and swelling, cane-assisted walking, therapy, oxycodone and gabapentin, and radiating pain and tingling. The August 28 follow-up records ongoing rehabilitation and right-hip symptoms. These later records did not exist at the hearing; I offer them as corroboration of the earlier documented knee condition, not as proof that every later symptom existed at the original disability date.

5. I am still dealing with pain and limitations after the revision.

The revision surgery has not meant an immediate end to my medical problems. I am now having hip pain and nerve-type pain similar to sciatica. These symptoms are being evaluated by my treating surgeon and by my pain-management physician, Dr. Godwin Maduka. I am continuing physical therapy and taking prescribed narcotic pain medication for pain relief. Pain disturbs my sleep on many nights. The ongoing discomfort, lack of restful sleep, uncertainty about my recovery, and inability to return to the work I have done for so many years have also affected me emotionally and psychologically. I am not asking the Board to treat these newer symptoms as separately established industrial disabilities without the required medical evidence. I am asking the Board to understand my actual recovery and functional limitations, and, if the procedure permits, to consider the available follow-up records or allow further medical review. I understand that symptoms arising after the hearing must be considered in light of the relevant disability date and the rules governing additional evidence.

6. The social-media pictures do not show whether I can work as a correctional nurse.

I disagree with the way some social-media pictures and videos were interpreted. As I have explained before, some images were older, reposted, staged, or used to promote travel-related activities. A picture does not show how long I was able to do something, whether I was actually participating in the activity described, or how much pain I experienced afterward. It certainly does not show that I can run to an emergency, lift or move patients, and remain on my feet through a full nursing shift. I ask the Board to reconsider the weight given to these materials, particularly Findings 37 and 38. I specifically dispute the characterization of the October 11, 2020 Lakers-celebration video as showing me "jumping up and down." Some photos were taken in earlier years, including material I believe originated in 2016, and later reposted or used for travel promotion. A posting date is not necessarily the date of the activity. I request reconsideration of Findings 37 and 38 with attention to chronology, actual participation, duration and context.

7. Please consider the medical notes from both treating orthopedic surgeons.

I submitted medical notes from Dr. Steven Nishiyama and Dr. Norman Livermore as evidence at my administrative hearing. As I understand the ruling, the Administrative Law Judge treated these notes as administrative hearsay and did not give them the weight I believe they deserved. I respectfully ask the Board to review the specific evidentiary findings and reconsider how these records were evaluated. Dr. Livermore's signed CalPERS Physician's Report on Disability expressly stated that I was permanently and substantially incapacitated from my usual nursing duties. Dr. Nishiyama's records documented the ongoing knee problems that ultimately required revision surgery. These were not merely unsupported statements by me; they were records from physicians who evaluated and treated my orthopedic conditions. I understand that Government Code section 11513 sets limits on the use of hearsay in administrative proceedings, and I am not asking the Board to disregard those rules. I ask that the Board determine whether the reports, any applicable exceptions, and other evidence in the record were given the consideration legally permitted, including whether the findings were sufficiently supported apart from hearsay. I ask the Board to identify which records were admitted, for what purpose, and what independent evidence was considered. Under Government Code section 11513, hearsay may supplement or explain other evidence but generally cannot alone support a finding over proper objection unless otherwise admissible in civil proceedings. I am not asserting that every medical note must be accepted without scrutiny.

8. My left shoulder remains untreated, and finding a specialist has been difficult.

I continue to have pain and limited range of motion in my left shoulder. My September 17, 2024 MRI documented an intrasubstance delaminating tear of the infraspinatus tendon, a torn posterior labrum, moderate arthritis with cartilage loss, and changes at the acromioclavicular joint. These are not just complaints of pain; the MRI shows structural problems. Reaching overhead, pushing, pulling, lifting, and using my left arm repeatedly are difficult for me. These are all activities my nursing position requires. My left shoulder has not yet received the specialist treatment I need. We are still trying to find an orthopedic surgeon in Las Vegas who specializes in shoulder problems and is willing to accept California State Compensation Insurance Fund coverage. The pain-management records show that a referral was requested in 2025 and that staff had trouble identifying an available authorized provider. State Fund approved an orthopedic evaluation and treatment on May 5, 2026, but approval alone has not meant that I have been able to obtain the needed specialist care. I ask the Board not to mistake this gap in treatment for an absence of serious shoulder problems.

9. Dr. Livermore found me permanently and substantially incapacitated.

My original orthopedic surgeon, Dr. Norman Livermore, performed my right total knee replacement on January 11, 2023. On September 11, 2023, he completed and signed the CalPERS Physician's Report on Disability. On that form, he checked "Yes" when asked whether I was substantially incapacitated from my usual duties, and he also checked "Yes" that the incapacity was permanent. He identified right-knee and left-shoulder problems and limitations with lifting and carrying. His report indicates that he reviewed my duty statement, although he did not mark that he reviewed the separate Physical Requirements of Position form. I ask the Board to consider the opinion he actually recorded and the limitations he identified in relation to my nursing duties. Dr. Livermore had agreed to testify at my administrative hearing and explain his findings. Sadly, he passed away before the hearing and could not appear. His absence was beyond my control. I understand the Board cannot assume what additional testimony he would have given, but his signed report is available. I respectfully ask that it be given appropriate weight under the applicable evidence rules, and that the Board consider whether the loss of an opportunity to hear from this treating surgeon supports reconsideration or further review. I also ask the Board to consider that his written report was submitted as evidence, even though he could not appear to explain it because he passed away before the hearing. Dr. Livermore saw, examined, and treated me over approximately five years, from 2020 through the closing of his practice in February 2025. His January 30, 2025 letter confirms that he was retiring and would close his office on February 28, 2025. During those years he had repeated opportunities to assess my condition and personally performed my right knee replacement. By comparison, Dr. Heyrani evaluated me on one occasion for approximately 30 minutes. I understand that a treating physician's opinion is not automatically controlling and that a short evaluation is not automatically unreliable. My concern is that the decision appeared to give greater weight to the one-time assessment without adequately explaining why the long-term treating surgeon's documented findings, including his signed CalPERS disability report, were less persuasive. I ask the Board to examine the reasons for that difference in weight. The retirement letter documents his practice closure, not his subsequent death or his agreement to testify; those circumstances are based on my own account.

10. CDCR was declared in default at my July 13, 2026 hearing.

The proposed decision confirms that the California Department of Corrections and Rehabilitation (CDCR), my employer, did not appear at the July 13, 2026 administrative hearing despite having been served with notice. It states that the matter proceeded as a default against the Department under Government Code section 11520(a) (proposed decision, page 2). CDCR had direct knowledge of the duties of my correctional Registered Nurse position, but it did not participate at the hearing to explain or clarify those requirements. I understand that CDCR's default does not automatically prove my entitlement to industrial disability retirement, and I do not suggest that it prevented CalPERS from participating. I respectfully ask the Board to consider the procedural effect of the Department's default together with the way my job duties and the medical records of Dr. Livermore and Dr. Nishiyama were evaluated. I ask for a careful review of whether the evidence was assessed under the applicable standards and whether reconsideration or further proceedings are warranted.

11. My July 2, 2023 regular retirement was a financial necessity, not medical recovery.

My work-related injury occurred on April 17, 2020, and more than six years later I continue to experience its medical and financial consequences while this matter remains unresolved. Before my regular service retirement became effective on July 2, 2023, I consulted CalPERS multiple times about my retirement options. I understood that industrial disability retirement could take a long time to resolve and that I could receive regular service retirement benefits while pursuing industrial disability retirement. I also understood that, if my industrial disability retirement application were approved, my retirement classification could be changed accordingly. I cannot recall the names of the individuals with whom I spoke, and I do not claim that those consultations alone establish eligibility for conversion. Because of my continuing physical limitations and financial need, I elected regular service retirement effective July 2, 2023. This decision did not mean I had recovered or was capable of safely returning to my correctional nursing duties. I ask the Board to consider the circumstances of that decision and determine my industrial disability retirement eligibility under the applicable requirements and relevant dates, based on the medical evidence rather than treating my regular retirement as proof of recovery. I am the sole breadwinner for a family of six, including a child with a developmental disability who depends on our family for continuing care, support, and financial stability. The prolonged disability retirement process has affected every member of my household. Losing my regular employment income while continuing medical treatment and waiting for a final determination has placed substantial pressure on our ability to meet everyday financial obligations. The uncertainty has also taken an emotional toll on my family, especially as I try to meet our household obligations and provide consistent support for my child. I share this not to ask for special treatment or to substitute financial hardship for the medical requirements of industrial disability retirement, but to explain why I could not afford to wait indefinitely before taking regular service retirement. I respectfully ask the Board to consider this context when evaluating my retirement decision.

12. The April 17, 2020 workplace incident and my separate willful-misconduct allegations.

My industrial injury arose from a slip-and-fall at work on April 17, 2020. As I previously explained, water had been leaking in the triage office for approximately two weeks before the incident. I have raised allegations of willful misconduct concerning the circumstances of that workplace hazard and have pursued a separate claim. I ask the Board to recognize this history as relevant background to how my injury occurred and the prolonged treatment and disability process that followed. I understand that the alleged misconduct has not been established merely because I raised it, and that the separate claim does not itself prove my entitlement to industrial disability retirement. My request for reconsideration rests on the documented right-knee and left-shoulder conditions and whether those conditions substantially incapacitated me from my usual correctional Registered Nurse duties. I do not ask the Board to decide the separate willful-misconduct claim in this proceeding.

13. Why I am asking for reconsideration.

I respectfully request that the Board grant reconsideration of its September 16, 2026 decision; specifically reexamine Findings 37 and 38 and Legal Conclusion 7; assess the right-knee and left-shoulder evidence against the actual physical demands of my correctional RN duties; reconsider the evidentiary treatment of Dr. Livermore's and Dr. Nishiyama's medical records under Government Code section 11513; and consider the July 15 revision surgery and later postoperative records to the extent permitted. Alternatively, I ask the Board to reopen or remand the matter for a fuller functional assessment. My family's hardship explains my retirement decision but is not a substitute for the medical eligibility standard. Thank you for considering my request.

Respectfully submitted,

JOVEN B. AROMIN

Respondent, In Pro Per

Date: 10-23-2026

Authorities: Gov. Code, §§ 20026, 21151, 21156, 11513, 11520, 11521; Mansperger v. Public Employees' Retirement System (1970) 6 Cal.App.3d 873.