ATTACHMENT E

THE PROPOSED DECISION

BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA

In the Matter of the Application for Industrial Disability Retirement of:

JOVEN B. AROMIN and CALIFORNIA MEDICAL FACILITY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondents

Agency Case No. 2024-0657

OAH No. 2025010666

PROPOSED DECISION

Marcie Larson, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 13, 2026, from Sacramento, California.

Bryan R. Delgado, Staff Attorney, represented Sharon Hobbs, Chief Disability and Survivor Benefits Division, California Public Employees' Retirement System (CalPERS).

Respondent Joven B. Aromin appeared at the hearing and represented himself.

There was no appearance by or on behalf of the respondent California Medical Facility, California Department of Corrections and Rehabilitation (Department). The Department was duly served with a Notice of Hearing. The matter proceeded as a default against the Department pursuant to California Government Code section 11520, subdivision (a).

Evidence was received, the record closed, and the matter was submitted for decision on July 13, 2026.

ISSUE

The issue on appeal is whether at the time respondent filed his application for Industrial Disability Retirement (IDR) on the basis of his orthopedic conditions (right knee and left shoulder), he was permanently disabled or substantially incapacitated from the performance of his usual and customary duties as a Registered Nurse (RN) for the Department.

FACTUAL FINDINGS

Procedural History

1. Respondent was employed by the Department at the California Medical Facility as an RN from approximately 2006 until July 2023. On September 13, 2023, respondent submitted to CalPERS an application for service retirement pending IDR, with an effective retirement date of July 2, 2023. By virtue of his employment, respondent is a state safety member of CalPERS subject to Government Code section 21151. Respondent was 54 years old when he filed his application.

2. In filing the application, respondent claimed disability on the basis of his right knee and left shoulder. Respondent wrote that his disability occurred on April 17, 2020. Respondent's right knee condition occurred when he slipped and fell at work. His right knee hit the metal handle of a cabinet drawer. Respondent did not state how the injury to his left shoulder occurred. Respondent wrote that he was not able to stand for more than five minutes without pain, could not walk more than 50 feet without pain, and could not climb up or down stairs. Respondent also wrote that he had left shoulder pain and limited range of motion.

3. CalPERS obtained medical records and reports from Norman Livermore III, M.D. and Nasser Heyrani, M.D., who conducted an Independent Medical Evaluation (IME) of respondent concerning his orthopedic conditions. After reviewing the records and reports, CalPERS determined that respondent was not substantially incapacitated from the performance of his job duties as an RN for the Department.

4. On May 31, 2024, CalPERS notified respondent that his application for IDR was denied. Respondent was advised of his appeal rights. By letter dated June 24, 2024, respondent filed an appeal and request for hearing. Respondent wrote in his appeal letter that he disagreed with CalPERS determination. He stated that "he can barely walk a block," walk up or down stairs or stand for a "long time."

5. On February 6, 2017, Ms. Hobbs, in her official capacity as Chief, Benefit Services Division, Board of Administration, CalPERS, made and thereafter filed the Statement of Issues. Thereafter, the matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Respondent's Work Injury and History of Treatment

6. On April 17, 2020, while respondent was at work, he slipped on water that leaked onto the floor from a sink located in his office. As respondent fell to the ground, his right knee hit a metal handle of a cabinet drawer. Respondent had immediate right knee pain. Respondent reported the incident to his supervisor and filed an accident report. Respondent then drove to see his primary care physician. X-rays were taken of respondent's right knee which appeared to show a fractured patella, which is the knee cap. Respondent's physician recommended a computed tomography (CT) scan of respondent's right knee.

7. The following day, respondent had a CT scan and Magnetic Resonance Imaging (MRI) of his right knee, which showed chondromalacia of the right patella, which is softening of the cartilage under the knee cap. Respondent's physician recommended physical therapy and pain medications. Respondent was also given a knee brace. Respondent returned to work for a few weeks. However, the Department could not accommodate his temporary work restrictions. Respondent was placed on leave effect May 1, 2020. He filed a workers compensation claim and never returned to work after that date.

8. From May 2020 until April 2021, respondent treated his right knee condition with physical therapy, cortisone injections and pain medication. Upon further imaging, it was determined that respondent did not have a fractured patella. However, respondent continued to have pain. On April 6, 2021, respondent had arthroscopic surgery on his right knee to remove and repair cartilage from underneath respondent's right knee cap. Respondent completed physical therapy. His condition briefly improved, but his knee pain returned after a few months. Respondent's physician recommended he undergo a total knee replacement.

9. In May 2021, while respondent was recovering from his right knee surgery, he lost his balance walking down a staircase in his home. Respondent injured his left shoulder. Respondent was evaluated by his physician. An MRI revealed a rotator cuff tear. Initially, respondent's physician recommended cortisone injections, physical therapy and pain medications. Respondent's pain did not improve. In March 2022, he underwent arthroscopic surgery on his left shoulder to repair the rotator cuff tear. Thereafter, he completed physical therapy.

10. On January 11, 2023, respondent had a total knee replacement of his right knee. By February 2024, it was determined that the knee implanted was too big. Respondent was scheduled for revision surgery on July 15, 2026.

Duties of an RN

11. The essential job functions for an RN for the Department include providing direct and indirect nursing care to inmate patients, which can include dispensing medication, administering injections, taking vital signs, and charting treatment. RN's must be able to respond "quickly and appropriately during an emergency situations." RNs must be able to access all levels of the facility using staircases.

12. On September 5, 2023, respondent signed a "Physical Requirements of Position/Occupational Title" form (Physical Requirements form). According to the Physical Requirements form, when working as an RN, respondent must in part: (1) constantly (over five hours) interact and communicate with inmates, coworkers and the public, and walk on even and uneven ground; (2) frequently (two and a half to five hours a day) carry up to 50 pounds, sit, stand, bend and twist at the neck and back, reach above and below the shoulders, push, pull, grasp, use a computer mouse, and

be exposed to noise and extreme temperatures; (3) occasionally (31 minutes to two and a half hours) run, crawl, kneel, climb, squat, engage in fine manipulation, be exposed to fumes and chemicals, work at heights and carry more than 50 pounds; and (4) infrequently (5 to 30 minutes) run, kneel, climb, squat or work at heights.

CalPERS Investigation

13. After respondent submitted his application, Yolanda Clive, a CalPERS Investigator in the Disability Validation Unit, was assigned to investigate respondent's request for IDR. Investigator Clive testified at hearing and issued a "Report of Investigation." Investigator Clive explained that part of her duties includes gathering information about an applicant who requests disability retirement. This can include conducting surveillance of the applicant and gathering publicly available information. The purpose of the investigation is to collect any information which may be relevant to the claims of disability made by the applicant.

14. Investigator Clive explained that respondent lives outside of California. As a result, she could not conduct surveillance. Instead, she searched for publicly available information, which included respondent and his wife's social media posts. Investigator Clive limited her search to the period after applicant was injured in April 2020, until October 2023, the month after he filed his IDR application.

15. Investigator Clive discovered many social media posts and videos on Facebook and TikTok. The posts include photos and videos depicting respondent in various locations around the world, engaging in recreational activities such as driving an off-terrain vehicles (ATV), hiking, kayaking, riding a jet ski, dancing, swimming, playing golf, and holding a surfboard.

16. The posts begin on June 20, 2020, two months after the injury to his right knee, and show the following:

- June 20, 2020, respondent posted a picture of himself and his wife sitting on an ATV with the caption "Best ATV experience in Costa Rica."
- In August 2020, respondent posted several pictures of himself and his wife on a trip to Playa del Carmen, Mexico.
- On September 1, 2020, respondent posted a picture of himself sitting on a rock with the San Francisco Golden Gate bridge behind him.
- At the end of September and beginning of October 2020, respondent posted several pictures of himself and his wife in front of various monuments in Italy, including the Roman Coliseum.
- On October 11, 2020, respondent posted a video of himself jumping up and down celebrating a Lakers basketball win.
- In December 2020, respondent posted pictures of himself and his wife in Los Cabos, Mexico.
- In January 2021, respondent and his wife posted pictures of themselves and their family in Hawaii.
- In early February 2021, respondent posted pictures of himself in Egypt in front of pyramids and other Egyptian monuments, which shows respondent standing on uneven terrain.
- In late February 2021, respondent posted pictures of himself and his wife in Puerto Rico.

- On May 1, 2021, respondent posted a video showing himself and his wife in Rome, Italy, Athens, Greece, the Sea of Galilee in Israel, and Barcelona, Spain. Respondent is seen walking inside the Roman Coliseum, inside the Vatican, walking on rugged terrain near ruins, at the top of the Acropolis in Athens with dozens of rugged stairs depicted.

- Between May 23 and 26, 2021, respondent posted photographs of himself and his family in front of various amusement parks in Florida. In one picture respondent is seated in a wheelchair and noted in a comment that he had not yet recovered from surgery. However, in other pictures he is seen standing wearing a flexible brace on his right knee.

- On May 30, 2021, respondent posted pictures of himself and his wife in Tulum, Mexico.

- On June 18, 2021, respondent posted a picture of himself and his wife at Hurricane Harbor Concord, an amusement park in Concord, California.

- On July 24, 2021, respondent posted pictures of himself at the Toyoko Olympics.

- On August 3, 2021, respondent posted a picture of himself at a gym with the caption "Recovery Mode!!!"

- Between August 15 and September 24, 2021, respondent and his wife posted several pictures of themselves in Maldives and Dubai. The comment on one picture state that respondent had spent his 52nd birthday in Maldives. A picture shows respondent and his wife on a jet

ski. Several other pictures show respondent dancing on the beach with his wife and kayaking.

- On February 25, 2022, respondent posted pictures of himself and his wife in Turkey.

- From May 3 through 6, 2022, respondent and his wife posted pictures and a video of himself and his wife in Paris, including pictures in front of the Eiffel Tower, in front of and inside the Louvre, and outside in parks. In one picture, respondent is lifting his wife off her feet. In the video respondent is walking down a large pathway at a park.

- In June and July 2022, respondent's wife posted several photos of respondent at various locations on the Las Vegas strip.

- On July 31 through August 2, 2022, respondent's wife posted pictures of her and respondent at Disneyland. One picture shows respondent in the front seat of a bicycle peddle cart.

- In September 2022, respondent and his wife posted pictures and videos themselves in Singapore. One picture shows respondent standing next to a bicycle. Three videos show respondent running out of the ocean onto a beach, kayaking, riding a bike and sitting on a rock on a rocky terrain beach.

- In late October and early November 2022, respondent and his wife posted pictures and a video of themselves in Malaysia and Thailand, including pictures sitting on top of an ATV, kayaking and sitting down and standing near the top of a large flight of stairs.

- In November 2022, respondent posted pictures of himself and his wife promoting a solar company they were working for at that time. One picture shows respondent and his wife standing in front of a work van with equipment inside.

- On December 19, 2022, respondent posted pictures of himself and his family on a cruise to Bahamas.

- On March 23, 2023, respondent posted a picture of himself with the caption "I feel Great!!!!"

- Respondent posted a video of himself on June 28, 2023. Respondent was at gym and stated that it was "great to be back at the gym after several months." Respondent wrote that he had "surgery on his right knee and left ankle." Respondent stated that it was goal to get "six pack abs" and better "body composition."

- On July 25, 2023, respondent posted a picture of himself without a shirt, flexing his arm muscles with the caption "Lost 37 lbs., reversed all medical conditions, dumped all prescription medications, freed myself from harmful side effects, improved my body composition, feel great like a 25 year old…working on my 6 pack abs."

- In late August 2023, respondent posted pictures of himself and his wife in Jamaica. One photograph shows respondent standing on top of a flat bamboo raft holding a large bamboo stick used to move the raft.

- On September 17, 2023, respondent posted a picture of himself wearing a tight-fitting Superman logo shirt which emphasizes his muscular

physique. The caption reads ""If you started 6 months ago, you should have lost 41 lbs, should've eradicated all your chronic illnesses, should've normalized your cholesterol, triglycerides, kidney filtration, bloodsugar, A1C etc the natural way without freakin side effects."

- On September 25, 2023, respondent posted a picture of himself with the caption "Thank you Feel Great System, I am now able to tuck in my shirt. All my chronic illnesses are cured. I am free from taking prescription medications. I am free from any side or adverse effects. Lost 42 pounds in several months without dieting, without counting calories, minimal to no exercise. Take a leap of faith like I did. It's well worth it. Start your journey now. I will guide you through it. Yours Truly, Joven Aromin BSN RN."

- On October 9, 2023, respondent posted a picture of himself at a basketball game in a large stadium.

- On October 16, 2023, respondent posted several "before and after" pictures of himself showing the change in his physique with the caption "Start your journey to a chronic disease FREE life. I will guide, coach and mentor you on how to turn your body into a FATT BURNING MACHINE. Coaching and mentoring is FREE. We guarantee results. Let's get it! www.feelgreatQday.com"

Independent Medical Evaluation

17. On May 6, 2024, at the request of CalPERS, Dr. Heyrani conducted an IME of respondent and issued a report. Dr. Heyrani testified at hearing consistent with his report. Dr. Heyrani is board-certified orthopedic surgeon. In 2013, he obtained his medical degree from University of California (UC), Los Angeles David Geffen School of

Medicine. Thereafter, he completed an orthopedic residency at UC Davis Medical Center and an orthopedic foot and ankle fellowship at Harvard-Massachusetts General Hospital. Since 2020, Dr. Heyrani has worked as an Associate Orthopedic Surgeon in Corona, California.

18. As part of respondent's IME, Dr. Heyrani interviewed respondent, obtained a medical history, conducted a physical examination, reviewed medical records related to respondent's orthopedic conditions and the social media posts, photos and videos gathered as part of the CalPERS investigation. Dr. Heyrani also reviewed the essential functions and the physical requirements for an RN with the Department.

RESPONDENT'S INJURY AND PRESENT COMPLAINTS

19. Respondent informed Dr. Heyrani that on April 17, 2020, he injured his right knee when he slipped on a water that leaked onto the floor from a sink in his office. As he fell to the ground, he hit his right knee on the metal handle of a cabinet drawer. Concerning his left shoulder, respondent told Dr. Heyrani that he was at home descending the stairs when he lost his balance due to his right knee pain. He felt a "pop in his left shoulder." Respondent explained that his "left shoulder injury is a result of having right knee surgery due to his employment."

20. On April 6, 2021, respondent had arthroscopic surgery on his right knee. This procedure did not address his pain. In March 2022, respondent had arthroscopic surgery on his left shoulder which addressed some of his pain. On January 11, 2023, respondent had a total knee replacement of his right knee. Respondent had initial improvement, but it was later determined by a workers compensation qualified

medical evaluator (QME) respondent needed to have revision surgery because of ongoing pain. The pain is due to the wrong size knee being implanted.

21. Respondent complained of "constant, dull, aching pain in his right knee." He has a "popping, clicking, and locking sensation of the right knee." His right knee is "unstable and gives way." On a "pain scale of 1 to 10, he rates the pain as a 6." Respondent reported that his "symptoms are aggravated by movement, walking, ascending and descending stairs, and putting any weight on his right leg." His "symptoms are alleviated by resting, wearing his brace, and taking his pain medication of ibuprofen 800 mg as needed."

22. Concerning his left shoulder, respondent reported that he has "constant, sharp pain in his left shoulder." He also reported "limited range of motion in his left shoulder." On a "pain scale of 1 to 10, he rates the pain as a 7." Respondent's "symptoms are aggravated by reaching overhead, reaching behind him, and driving." His "symptoms are alleviated by resting, and taking his pain medication of ibuprofen 800 mg as needed."

23. Respondent explained that he enjoyed biking and playing basketball, but he no longer participates in these activities due to his orthopedic conditions. Respondent also reported that he has "much difficulty" climbing more than 10 stairs, working outdoors or doing light housework. He has "some difficulty" standing, rising from a chair, carrying more than five pounds, walking, and engaging in hobbies.

PHYSICAL EXAMINATION

24. Dr. Heyrani conducted a physical examination of respondent which included range of motion and strength testing of respondent's upper and lower extremities. Respondent had reduced range of motion and reduced strength of his left

arm and shoulder. Respondent's range of motion in his right knee was slightly reduced. Dr. Heyrani noted that respondent had right kneecap instability.

REVIEW OF RECORDS

25. Dr. Heyrani reviewed and summarized respondent's medical records and QME reports related to his orthopedic conditions. Dr. Heyrani noted that after respondent's accident in April 2020, a CT scan revealed Bipartite patella, which was initially diagnosed as a kneecap fracture. Dr. Heyrani explained that Bipartite patella is not a patella fracture. Rather it is a "normal anatomic variant that can appear as though it is a fracture." Dr. Heyrani explained that this variant occurs when the bones do not completely fuse together. This occurs in approximately three percent of the population and is a normal finding.

26. Dr. Heyrani noted that on April 6, 2021, respondent underwent right knee arthroscopy with right patellar chondroplasty to smooth and trim cartilage on the back of respondent's kneecap. On January 11, 2023, respondent underwent right knee total replacement. An MRI performed on June 21, 2021, of respondent's left shoulder, showed a "high-grade partial thickness tear involving the subscapularis tendon and moderate grade interstitial posterior supraspinatus tendinosis." The damage to respondent's rotator cuff was repaired during the March 2022 arthroscopic surgery.

27. Dr. Heyrani also listed the social medial post, pictures and videos he reviewed that were gathered by Investigator Clive. Dr. Heyrani wrote that respondent "is shown performing various duties including riding an ATV with both hands stretched open, jumping up and down celebrating a Los Angeles Lakers basketball victory, walking down a wooden pathway as well as a variety of other activities that are in

contrast to the history provided by him as well as the completion of activities of daily living mentioned earlier in this report that was filled out by [respondent]."

DIAGNOSES AND OPINIONS

28. Based on Dr. Heyrani's evaluation of respondent, his diagnoses were "right knee tricompartmental degenerative joint disease status post previous surgical interventions including knee arthroscopy and right total knee arthroplasty"; Bipartite right patella; and "Left shoulder supraspinatus tendinosis/tendinitis."

29. Dr. Heyrani opined that "[b]ased on the history, physical examination findings, as well as review of medical records including the sub rosa investigative report and surveillance video, [respondent] does not have an actual and present orthopedic impairment involving the left shoulder and right knee that arises to the level of substantial incapacity to perform his usual job duties."

30. Dr. Heyrani explained the basis for his finding that respondent is not substantially incapacitated from the performance of his duties as an RN. Dr. Heyrani wrote in part that there was "significantly poor patient cooperation and evidence of symptom exaggeration during the physical examination." Dr. Heyrani opined that respondent's "level of subjective complaints and objective findings do not lead to the level of substantial incapacity." Dr. Heyrani "acknowledge that he may have some difficulty in performing his job duties, he should be able to still complete the job duties listed in his physical job requirements."

Dr. Heyrani explained that his opinions are "underlined by, again, the multitude of surveillance video showing the member performing various strenuous activities including jumping up and down vigorously to celebrate his basketball team's victory in

2020, riding an ATV, and traveling to various places throughout the world including hiking in Jamaica as well as other parts of the world."

31. Dr. Heyrani explained the photos and videos respondent posted provided "a lot of information." Dr. Heyrani explained that respondent was able to travel and engage in recreational activities that are inconsistent with the physical limitations respondent described. Respondent reported that had difficulty "climbing a flight of 10 stairs, working outdoors, lifting greater than five pounds as well as standing and rising from a chair." These reported limitations are contradicted by the photos and videos.

SUPPLEMENTAL REPORT

32. On June 11, 2026, Dr. Heyrani prepared a Supplement Report after reviewing additional medical records, including "an MRI of the left shoulder revealing an infraspinatus tendon tear with moderate osteoarthritis of the left glenohumeral joint with subchondral cyst." Dr. Heyrani explained the additional medical records did not change his opinion. The MRI showed respondent has degenerative changes and tendon tear. Dr. Heyrani explained that respondent may have some difficulty performing job duties, but these difficulties do not rise to level of substantial incapacity.

Respondent's Testimony and Additional Evidence

33. Respondent explained that many of his social medial posts were from trips he took before his April 17, 2020 accident. Respondent initially testified that he has not worked in any capacity since he was taken off work in May 2020. However, he later admitted that he ran a multi-level marketing business promoting a travel company until 2025. Many of the social media posts were trips he took to promote his

business. Respondent explained that many of the photographs were staged to make it look like he was having a good time so that he could attract customers. However, he was in pain. Respondent explained on some of the trips he was able to get accommodations for his knee condition. Respondent explained that travel "saves his sanity." Last year he traveled to the Great Wall of China. Respondent claimed that he used a golf cart to reach the Great Wall.

34. Respondent also admitted that he and his wife worked for a solar company until 2023. Respondent explained that he helped his wife "on and off" with the business, but it was not full-time work. Respondent currently works for a weight loss company that he promoted in some of his social media posts. Respondent lives in Las Vegas. He recently renewed his Nevada RN license. He intends to open a medical spa with his daughter if he is physically able to do so.

35. Respondent explained that the imaging studies confirm that he has ongoing issues with his right knee and left shoulder. These conditions have gotten worse. Respondent was scheduled to have a revision of his right knee replacement because the knee implanted was too big and is causing him pain. Respondent submitted several physician reports documenting the ongoing pain he has in his right knee and left shoulder.

Analysis

36. When all the evidence is considered, Dr. Heyrani's opinion that respondent is not permanently disabled or substantially incapacitated from the performance of his usual and customary duties as an RN for the Department, based upon his orthopedic conditions, is most persuasive. His opinions are based on his review of the essential functions and physical requirements for an RN with the

Department, a physical examination, and review of medical and investigation records. Dr. Heyrani opined that respondent's subjective symptoms and limitations do not preclude him from performing his duties as an RN.

37. Dr. Heyrani's opinions are also supported by the numerous photos and videos respondent and his wife posted between June 2020 and October 2023. The social media post show respondent visiting dozens of countries around the world. He is engaging in strenuous activity, including kayaking, climbing stairs, riding bikes, hiking, riding ATVs, and walking on rugged and uneven terrain.

Most significantly, respondent filed his IDR application in September 2023, stating that he could not stand for more than five minutes without pain, could not walk more than 50 feet without pain, and could not climb up or down stairs. However, between June 2023 and September 2023, respondent posted several photos of himself stating that he had lost weight and felt like at "25-year-old." Respondent posted pictures of himself wearing a tight-fitting shirt that emphasized his muscular physique and added captions stating that he had cured himself of all of his medical conditions and that he was no longer taking prescription medication.

38. Respondent's contention that the photos and videos were staged and do not reflect his physical limitations is not persuasive. Respondent has continued to work, travel extensively and exercise since the injuries to his right knee and left shoulder. Also, respondent failed to present competent medical evidence to demonstrate that, at the time he submitted his IDR application, he was permanently disabled or substantially incapacitated from the performance of his usual duties as an RN based upon the legal criteria applicable in this matter. Respondent failed to establish that his IDR application should be granted based upon his orthopedic conditions.

LEGAL CONCLUSIONS

1. Respondent was employed by the Department as an RN until his service retirement on July 2, 2023. By virtue of his employment, respondent was a state safety member of CalPERS subject to Government Code section 21151, subdivision (a) which provides:

> (a) Any patrol, state safety, state industrial, state peace officer/firefighter, or local safety member incapacitated for the performance of duty as the result of an industrial disability shall be retired for disability, pursuant to this chapter, regardless of age or amount of service.

2. Government Code section 20026, provides that:

> "Disability" and "incapacity for performance of duty" as a basis of retirement, mean disability of permanent or extended duration, which is expected to last at least 12 consecutive months or will result in death, as determined by the board, or in the case of a local safety member by the governing body of the contracting agency employing the member, on the basis of competent medical opinion.

3. Government 21156 provides:

> (a)(1) If the medical examination and other available information show to the satisfaction of the board, [...] that the member in the state service is incapacitated physically or mentally for the performance of his or her duties and is

> eligible to retire for disability, the board shall immediately retire him or her for disability, unless the member is qualified to be retired for service and applies therefor prior to the effective date of his or her retirement for disability or within 30 days after the member is notified of his or her eligibility for retirement on account of disability, in which event the board shall retire the member for service.
>
> (2) In determining whether a member is eligible to retire for disability, the board or governing body of the contracting agency shall make a determination on the basis of competent medical opinion and shall not use disability retirement as a substitute for the disciplinary process.

4. "Incapacity for the performance of duty" under Government Code section 21022 (now section 21151) "means the substantial inability of the applicant to perform his usual duties." (*Mansperger v. Public Employees' Retirement System* (1970) 6 Cal.App.3d 873, 876.) Substantial inability to perform usual duties must be measured by considering applicant's abilities. Discomfort, which makes it difficult to perform one's duties, is insufficient to establish permanent incapacity from performance of one's position. (*Smith v. City of Napa* (2004) 120 Cal.App.4th 194, 207, citing *Hosford v. Board of Administration* (1978) 77 Cal.App.3d 854, 862.)

5. The burden of proof is on respondent to prove, by a preponderance of the evidence, that he qualifies for IDR. (*McCoy v. Board of Retirement* (1986) 183 Cal.App.3d 1044; Evid. Code, § 500; *Harmon v. Board of Retirement of San Mateo County*, (1976) 62 Cal.App.3d 689; *Glover v. Board of Retirement* (1980) 214 Cal.App.3d 1327, 1332.) To meet this burden, respondent must submit competent, objective

medical evidence to establish that, at the time of his application, he was permanently disabled or substantially incapacitated from performing the usual duties of his position. (*Harmon v. Board of Retirement*, *supra*, 62 Cal.App.3d at 697.)

6. Findings issued for the purposes of workers compensation are not evidence that respondent's injuries are substantially incapacitating for the purposes of disability retirement. (*Smith v. City of Napa*, (2004) 120 Cal.App.4th 194, 207; *English v. Board of Administration of the Los Angeles City Employees' Retirement System* (1983) 148 Cal.App.3d 839, 844; *Bianchi v. City of San Diego*, (1989) 214 Cal.App.3d 563.)

7. Respondent did not present competent, objective medical evidence to establish that he was permanently disabled or substantially incapacitated from performance of his usual duties as an RN at the time he filed his IDR application. Therefore, based on the Factual Findings and Legal Conclusions, respondent is not entitled to retire for industrial disability pursuant to Government Code section 21151, subdivision (a).

ORDER

Respondent Joven B. Aromin's application for industrial disability retirement is DENIED.

DATE: July 24, 2026

Marcie Larson
Marcie Larson (Jul 24, 2026 11:58:12 PDT)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings