

STATE OF RHODE ISLAND

PROVIDENCE, SC.

WORKERS' COMPENSATION COURT
APPELLATE DIVISION

LISSETH ARIAS

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VS.

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W.C.C. 2023-04141

)

COASTAL MEDICAL, INC.

)

FINAL DECREE OF THE APPELLATE DIVISION

This matter came to be heard by the Appellate Division upon the claim of appeal of the petitioner/employee and upon consideration thereof, the employee's claim of appeal is denied and dismissed, and it is

ORDERED, ADJUDGED, AND DECREED:

That the findings and orders contained in a decree of this Court entered on November 27, 2024 be, and they hereby are, affirmed.

Entered as the final decree of this Court this *30th day of April 2026.*

PER ORDER:

/s/ Nicholas DiFilippo
Administrator

ENTER:

/s/ Pepin Fay, J.

/s/ Conte, J.

/s/ Lazieh, J.

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DECISION OF THE APPELLATE DIVISION

PEPIN FAY, J. This matter is before the Appellate Division on the employee's appeal from the trial judge's decision and decrees denying the employee's petitions to review. The employee received weekly benefits pursuant to a Memorandum of Agreement dated April 11, 2019, which documented a lumbar strain sustained on March 12, 2019 that resulted in partial incapacity from March 21, 2019 and continuing. In her first petition to review, the employee sought pre-approval for a second opinion evaluation and a repeat trial of lumbar injections. On October 13, 2022, the trial judge entered a pretrial order denying the petition. The employee filed a timely claim for trial. In her second petition to review, the employee sought pre-approval for a right sacroiliac joint injection and a right piriformis injection. On July 25, 2023, the trial judge entered a pretrial order denying the petition. The employee filed a timely claim for trial. After a thorough review of the record, and following consideration of the parties' respective arguments, we deny and dismiss the employee's appeal and affirm the trial judge's decision and decrees.

Lisbeth Arias (the "employee") worked as a medical assistant for Coastal Medical, Inc. (the "employer"). The employee testified that in 2019, she was in a room taking a patient's vitals

when that patient passed out and fell on top of her. The employee stated that during this incident, her right leg was pinned underneath her with her left leg out straight and she felt her pelvis shift to the right. As a result, the employee sustained a lower back strain and missed six months of work, after which she returned to work for the employer. She testified that since the injury, the pain comes and goes, and she has never been pain-free, though she has been “working right along” from 8:00-4:30 five days a week. Tr. at 13: 11.

The employee initially sought treatment for the injury at Lincoln Urgent Care, then began treating with Dr. David Bica. Dr. Bica referred the employee for back injections, which were performed by Dr. Pasquarello at University Orthopedics. The employee went to the Arrigan Center to treat the injury for about three months. Dr. Bica discharged her in approximately 2021. In 2022, the employee saw Dr. Richard Anderson for an evaluation. The employee also went to the Norman Prince Spine Institute in 2023. She testified that, as asserted by the first petition to review, she was interested in going to the New England Baptist Hospital Spine Center for further evaluation and trial of lumbar injections.

The medical evidence presented by the employee included the deposition of Dr. Anderson and various reports attached as a full exhibit. The parties stipulated to Dr. Anderson’s qualifications as a board-eligible orthopedic physician. Dr. Anderson saw the employee on May 24, 2022. He testified that at that time, he took a history from the employee and performed a physical examination. The history detailed that the employee was getting a patient ready in an examination room when the patient had a medical episode that caused him to fall and land on her. The employee described the patient to be very large and that as she fell, she did the splits so that her legs went in different directions. The physical examination revealed findings of point tenderness on the right side of the employee’s lower back, particularly in the area of her SI joint

and sciatic notch. Dr. Anderson diagnosed her with lumbar sprain/strain and lumbar radiculopathy and causally related the diagnoses to her work injury.

Dr. Anderson testified that he knew the employee was a medical assistant and was aware of the physical requirements of that job. He did not know whether the employee was specifically working at the time of his examination. He testified that he believed the employee's pain might flare up and she would work light duty for periods of time. He opined that the employee would have difficulty doing patient transfers, bending, and lifting, and thus, the employee was partially disabled. Dr. Anderson recommended the employee seek a second opinion and additional lumbar injections at New England Baptist Hospital due to its spine program. Dr. Anderson testified that his subspecialty was orthopedic trauma and that he did not personally treat spine injuries because there were spine subspecialists. He reviewed the report of Dr. Rasha Laert, who diagnosed the employee with right sacral joint dysfunction, right sacroiliac pain, piriformis syndrome, myofascial pain syndrome, and lumbar facet syndrome. Dr. Anderson agreed with Dr. Laert's recommendations of a right SI joint injection and right piriformis injection. Dr. Anderson stated that he reviewed records of Dr. Bica and recommended continuing injections because they had a positive effect in relieving the employee's pain.

Dr. Anderson also reviewed the report of Dr. Ira Singer. Dr. Anderson testified that he agreed with Dr. Singer's assessment that the employee had chronic low-back pain. However, Dr. Anderson disagreed with Dr. Singer's opinions that the employee did not have radiculopathy and ongoing partial disability and that the employee's treatment with Dr. Bica was unrelated to the work injury. Dr. Anderson reasoned that the employee had consistent complaints of back pain since the work injury and no significant preexisting condition that could have explained it. Regarding Dr. Anthony Robert Buonanno's impartial medical examination report, Dr. Anderson

disagreed with Dr. Buonanno's conclusion that the employee reached maximum medical improvement. Dr. Anderson noted the employee's ongoing complaints of low-back pain.

On cross-examination, Dr. Anderson agreed that as far as he was aware, the employee did not have any treatment for her back from June 8, 2021 to April 2023. Dr. Anderson stated that Dr. Bica agreed with the findings in Dr. Buonanno's report and that the employee's injury reached maximum medical improvement. Dr. Anderson also testified that Dr. Singer agreed with Dr. Buonanno. Dr. Anderson admitted that he was not familiar with the employee's exact job duties.

The medical evidence presented by the employer included the deposition of Dr. Buonanno and various reports attached as a full exhibit. The employee objected to Dr. Buonanno's qualifications on the day of the deposition. However, the employee made no objection to the deposition being marked as a full exhibit at trial. Dr. Buonanno testified that he was a board-certified general orthopedic surgeon. Dr. Buonanno saw the employee on December 2, 2021 to perform a court-appointed impartial medical examination. At that time, he took a history from the employee and performed a physical examination. He testified that he reviewed the reports provided to him by the court regarding the employee's treatment records, diagnostic reports, and independent medical examination reports. The history included that the employee fell backwards, landing on her buttocks, in March of 2019. The physical examination revealed subjective complaints of tenderness in her low back to light touch, but no objective findings.

Dr. Buonanno's diagnosis of the employee was status post-lumbosacral strain. He opined that the employee had no orthopedic disabilities and reached maximum medical improvement from the work injury. He testified that she required no further treatment and that her request for right sacroiliac joint injections and right piriformis injections was not necessary. Dr. Buonanno

admitted that he was not a back surgeon and only performed a limited number of back surgeries in his career. He testified that at the time of his impartial medical examination, the employee related to him that she was working full-time, full duties without restrictions.

The trial judge issued a written decision denying the employee's petitions to review. In assessing the evidence, the trial judge noted that the employee's testimony was credible and truthful regarding the condition of her back in relation to the March 12, 2019 work injury. However, the trial judge explained that while the employee mentioned going to the Norman Prince Spine Institute, the employee did not submit any medical records causally relating that treatment to the work injury into evidence.

The trial judge found the medical opinion of Dr. Buonanno to be more persuasive than that of Dr. Anderson. The trial judge stated that Dr. Buonanno's knowledge that the employee was working full-duty without restrictions, combined with his thorough physical examination and review of the employee's relevant medical records, was compelling. Dr. Buonanno opined that the employee reached maximum medical improvement regarding the work injury based on objective findings. The trial judge noted that the employee's prior treating physician, Dr. Bica, agreed with Dr. Buonanno's medical assessment.

The trial judge stated that Dr. Anderson's opinion that the employee remained disabled was nonsensical because at the time Dr. Anderson examined her, the employee returned to working for the employer in the same position full duty without restriction. The trial judge rejected Dr. Anderson's explanation that while the employee worked full duty, she would take time off based on her limitations because it was not supported by the employee's testimony. The trial judge noted that Dr. Anderson did not explain how injection recommendations made years prior to his examination were reasonable and necessary for the employee's work injury at the

time of his examination. The trial judge also noted that Dr. Anderson admitted that Dr. Bica agreed with Dr. Buonanno. Consequently, the trial judge concluded that the employee failed to satisfy her burdens of proof.

Our Appellate Division standard of review is highly deferential. When reviewing the decision of a trial judge, we are guided by the standard set forth in Rhode Island General Laws § 28-35-28(b), which states that “[t]he findings of the trial judge on factual matters shall be final unless an appellate panel finds them to be clearly erroneous.” Accordingly, our panel is prohibited from engaging in a *de novo* review of the record without first determining that the trial judge was clearly wrong or overlooked or misconceived material evidence. *Diocese of Providence v. Vaz*, 679 A.2d 879, 881 (R.I. 1996).

The employee has presented two reasons for appeal: (1) that the trial judge misconstrued Dr. Anderson’s testimony regarding Dr. Bica’s agreement with Dr. Buonanno and Dr. Singer; and (2) that the trial judge erred in failing to properly weigh the competency of Dr. Anderson and Dr. Buonanno. First, the employee argues that the trial judge should have mentioned Dr. Anderson’s comment that he had never seen a physician make an electronic addition to other physicians’ reports. Second, the employee argues that the trial judge did not adequately consider the qualifications of Dr. Anderson and Dr. Buonanno, especially where the employee did not stipulate to Dr. Buonanno’s qualifications.

To address the first reason of appeal, the context of Dr. Anderson’s testimony that Dr. Bica agreed with Dr. Buonanno and Dr. Singer is as follows.

Q: Okay. It’s fair to state that from that signature, and that notation from Dr. Bica, he indicated he agreed with Dr. Buonanno, correct?

A: Yes.

Anderson Dep. 25: 15-18.

Q: Is it fair to state that Dr. Bica indicated that he also agreed with Dr. Singer's independent examination report in his opinions?

A: Yes. I might add that I review a lot of cases, a lot of medical records, and this electronic addition to the letter is, this thing that's typed in here, I can't recall a time that I've seen a physician do that. *I'm not saying he didn't do it, I'm just saying...*

Q: So are you questioning the signature, then, from Dr. Bica; is that what you're stating, Doctor?

A: *No. No. I'm not questioning. I'm just -- I'm just making an observation. It's not that I'm questioning the validity of it all, I'm just making an observation.* In all the cases I've reviewed over the years, it's not something I've routinely seen.

Anderson Dep. 26: 7-16 (emphasis added).

Dr. Anderson clearly stated that he was not questioning the validity of Dr. Bica's notations. He was simply remarking that he had not seen something like that done before. He repeatedly affirmed that those remarks did not at all change his belief that Dr. Bica indicated agreement with Dr. Buonanno and Dr. Singer. The trial judge had no obligation to note this in the trial decision. It was neither misconceived nor material evidence.

To address the second reason of appeal requires an analysis of the admission of Dr. Buonanno's deposition and a trial judge's discretion when determining the weight to afford the testimony of an expert witness. Rule 2.13(A)(3) of the Rules of Practice of the Workers' Compensation Court states, "Objections made during a deposition which is introduced into evidence at trial shall be deemed waived unless the objecting party requests a ruling by the trial judge on a specific objection prior to the admission of the deposition into evidence." *R.I. Work. Comp. Ct. R. 2.13*. Here, the issue was not properly preserved for review. The employee objected during the deposition, stating that she did not stipulate to Dr. Buonanno's qualifications. However, at trial, the employee did not object to the trial judge marking the deposition as a full exhibit. If the employee was concerned about the competency of Dr. Buonanno to render a

medical opinion in this case, then the time to raise that concern was the moment the deposition was offered. Failing to do so waived the objection.

Nevertheless, even with appropriate objection, we would conclude that the trial judge committed no error in accepting Dr. Buonanno's testimony. It is well settled that the determination of the competency of expert witnesses is a matter within the discretion of the trial judge that will not be disturbed absent clear error or abuse of that discretion. *Debar v. Women and Infants Hosp.*, 762 A.2d. 1182, 1185 (R.I. 2000); *Oakland Grove Health Care Center vs. Marlen Ribon*, W.C.C. 00-07399 (App. Div. 2002). Rule 6.7 of the Rules of Practice of the Workers' Compensation Court outlines the qualifications required of impartial medical examiners. *R.I. Work. Comp. Ct. R. 6.7*. To become an impartial medical examiner, a physician must be board-certified; submit an application detailing a record of prior achievements, hospital staff appointments, and any past disciplinary action; and be sworn in by the chief judge of the Workers' Compensation Court. To remain an impartial medical examiner, a physician must submit a renewal application every two years and attach a current curriculum vitae. Dr. Buonanno was a court-appointed impartial medical examiner, board-certified, and the trial judge not only accepted the deposition as a full exhibit but also found his medical opinion persuasive.

The employee's assertion that the trial judge erred because Dr. Buonanno was not a spine specialist is without merit. In medical malpractice cases, any doctor with knowledge or familiarity with a procedure is competent to testify about the requisite standard of care and whether there was a deviation from that standard, regardless of the doctor's area of professional specialization or certification. *Sheeley v. Memorial Hosp.*, 710 A.2d 161 (R.I. 1998). The same is true of workers' compensation cases—there is no obligation that a doctor must be a spine specialist to testify about a spine injury if they are otherwise knowledgeable or familiar with

spine injuries. Notably, the employee's own expert witness, Dr. Anderson, was a board-eligible orthopedic physician, not a spine specialist. Dr. Buonanno was not a back surgeon, but he was a board-certified general orthopedic surgeon. The trial judge acted well within his discretion in admitting both the testimony of Dr. Anderson and Dr. Buonanno despite neither being deemed a spine specialist.

When faced with conflicting medical opinions, the trial judge has the discretion to rely on the opinion of one medical expert over another. *Parenteau v. Zimmerman Engineering, Inc.*, 299 A.2d 168 (R.I. 1973). The trial judge found Dr. Buonanno's opinion more persuasive than Dr. Anderson's opinion and thoroughly explained his reasoning. Dr. Buonanno knew the employee was working full-duty without restrictions; Dr. Anderson did not. Dr. Anderson failed to explain why injection recommendations made years prior to his examination were still reasonable and necessary at the time of his examination. Dr. Anderson acknowledged that both Dr. Bica and Dr. Singer agreed with Dr. Buonanno. The trial judge considered all of the evidence presented in this matter to make his determination, and it will not be disturbed on appeal.

In conclusion, we do not find that the trial judge was in clear error or misconceived or overlooked material evidence.

Based on the foregoing reasons, the employee's appeal is denied and dismissed, and the decision and decree of the trial judge are affirmed. In accordance with Rule 2.20 of the Rules of Practice of the Workers' Compensation Court, a final decree, a proposed version of which is enclosed, shall be entered on April 30, 2026.

Conte, J. and, Lazieh, J., concur.

ENTER:

/s/ Pepin Fay, J.

/s/ Conte, J.

/s/ Lazieh, J.