BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H501837

THEALIN STILES, EMPLOYEE	**CLAIMANT**
HIRAM SHADDOX HEALTH AND REHAB, EMPLOYER	**RESPONDENT**
ARKANSAS SELF-INSURANCE TRUST/ CCMSI, INSURANCE CARRIER/TPA	**RESPONDENT**

OPINION FILED FEBRUARY 3, 2026

Hearing before Administrative Law Judge, James D. Kennedy, on the 16TH day of December, 2025, in Mountain Home, Arkansas.

Claimant is represented by Mark Alan Peoples, Attorney at Law, of Little Rock, Arkansas.

Respondents are represented by Jarrod Parrish, Attorney at Law, of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on the 16th day of December, 2025, to determine the issue of compensability of an alleged injury that the Claimant contends was sustained as a work-related injury to her back as a result of a specific incident while employed by the Respondent employer on or about March 23, 2025, plus temporary total disability, medical treatment, and attorney fees. The Respondents contend that the Claimant did not sustain a compensable work-related injury on or about March 23, 2025, or at any other time while working for the Respondent. A copy of the Pre-hearing order was marked "Commission Exhibit 1" and made part of the record without objection. The Order provided that the parties stipulated that the Arkansas Workers' Compensation Commission has jurisdiction of the within claim and that an employer/employee/carrier-TPA relationship existed on or about March 23, 2025, the date when Claimant contends she sustained an injury to her

back arising out of and in the course of her employment. The Claimant earned an average weekly wage of $691.70 which would entitle her to TTD/PPD benefits in the respective amounts of $461.00 and $346.00, if the claim is found be compensable. The Respondents controverted the claim in its entirety.

The Claimant's and the Respondent's contentions are all set out in their respective responses to the Pre-hearing Questionnaire and made a part of the record without objection. More specifically, the Claimant contends she injured her back on or about March 23, 2025, and that she is entitled to medical treatment and TTD from the date of the injury until a date to be determined, plus attorney fees. The Respondents contend that the Claimant did not suffer a compensable injury on or about March 23, 2025, or at any other time while working for the Respondents. If compensability is established, Claimant has not established entitlement to additional medical or temporary total disability benefits and Respondents assert the Shipper's defense, based upon the Claimant's failure to disclose her pre-injury problems and limitations. The witnesses consisted of Thealin Stiles, the claimant, Emily Sueann Dailing, Assistant Director of Nursing for the Respondent, Shawania Michelle Young, Personnel Director for the Respondent, and Kari Lynn Novak, the Director of Nursing for the Respondent. From a review of the record as a whole, to include medical reports and other matters properly before the Commission and having had an opportunity to observe the testimony and demeanor of the witnesses, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. 11-9-704.

FINDINGS OF FACT AND CONCLUSSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. That an employer/employee relationship existed on March 23, 2025, the date of the claimed injury.
3. That the Claimant has failed to prove by a preponderance of the credible evidence that she sustained a compensable work-related injury to her back on March 23, 2025.
4. That all remaining issues are moot.
5. If not already paid, the Respondents are ordered to pay for the cost of the transcript forthwith.

REVIEW OF TESTIMONY AND EVIDENCE

The Pre-hearing Order along with the Pre-hearing questionnaires of the parties were admitted into the record without objection. The Claimant submitted an exhibit of medical records admitted without objection. The Respondents submitted two exhibits without objection, with exhibit one of medical records, and the second exhibit consisting of non-medical evidence.

The Claimant was the first witness to testify. She testified she was injured back in March of 2025, while working for the Respondent in Mountain Home as a Certified Nursing Assistant. Her job consisted of taking daily care of the residents of the nursing home, changing them, feeding them, clothing them, and transferring them to the bathroom. If the lights go on, we respond to whatever they need. She had about 30 residents that she was responsible for when she hurt her back on March 23, 2025. She

answered a call light and went to the room and the resident was covered with feces. He "was a two-assist, two to three-assist." She explained that in other words, he required two or three people to help him because he was a very big guy. She went on to testify that she went to a nurses station and asked for help, was told that they would be down to assist, and that she then went to another nurses station and was also told that they would be down, but that the resident "kept on blowing on his light so I went in there and I proceeded to take care of him myself." In regard to obtaining help, the Claimant testified "they just failed to help me" stating they were busy. She went on to testify that she then pulled the draw sheet to turn him and as she pulled, he went to the right side, and she felt some pain in her middle to lower back at about T-12. "I proceeded to change him myself even after that because I just am that type of person." I got him cleaned up and rolled him back on his back. She continued that her back was not feeling well, and she went straight to the nurses' station where she told the charge nurse. She was then given a drug screen. (Tr. 6 – 9)

She went on to state that they did a report and sent her to the emergency room at Baxter Regional, where she received X-rays and CAT scans. It was her understanding that she was to have a follow up at Access Medical. She then went to Access Medical the next day and was taken off work, given muscle relaxers, and told to see a specialist. Arrangements were made for the specialist, but she was told that the Respondents had refused to pay for it. It was her understanding that any treatment that she received beyond that point was going to be outside of workers' compensation. She was eventually seen by Dr. Spurgeon in Springfield, where she continued treatment until the 5th of December. Prior to March 23, 2025, she was only experiencing regular arthritis with her back. She

admitted having preexisting lumbar issues with her back. (Tr. 10 – 12) When she injured her back on March 23, 2025, she hurt her back above the middle, above the lumbar. She admitted having a fusion in the lumbar region back in 2017 or 2018, due to a car accident. She also admitted doing pain management for lumbar pain every two months prior to the March 23 date. (Tr. 13, 14)

Under cross examination, the Claimant was questioned about not mentioning the patient or the resident being covered in feces during her deposition. She responded that she had to reposition him and that “I changed him.” (Tr. 14) She was also questioned about the charge nurse not documenting something happening at work and she responded that she did tell the charge nurse. She was also questioned about previously providing that there was a scheduled repositioning of the resident every two hours but not mentioning that she had to clean and wipe the patient. She responded that she told the charge nurse. (Tr.15) When questioned about earlier not bringing up the extra step involving the cleaning of the patient, she responded “I – I don’t have an answer for that.” She was then questioned about the folks at the Respondents attempting to prevent her workers’ compensation claim and responded, “They have cliques there.” When asked about stating that everyone in her deposition treated her nice, she responded “No.” She then admitted under further questioning that she did not have any conflicts or arguments with any of individuals who worked at the Respondent. (Tr. 16) She agreed that none of the people she named in her deposition had any problem with her and that she had no problem with them. When questioned about the people for the Respondent attempting to contact her in March or April of 2025, in an attempt to see what she was going to do in regard to off work slips or FMLA, she responded that she had run out of cell phone

minutes. Then when questioned about how the Respondent received text messages during that time-period, she responded that she did have some cell phone time available during the same time-period. She also admitted to having two back surgeries before the alleged work accident and admitted that she continued to have back issues and frequent problems with her sciatic nerve. She also admitted that at one point, she had been approved for social security disability based upon her back issues and that her doctors had instructed her to not lift over 50 pounds. She claimed that she had discussed that fact with the Respondent when she was hired to go to work for them. (Tr. 17, 18) She also admitted that she was told that if lifting more than 50 pounds were required, she was to get help, and she had agreed to the plan. She admitted to being approved on her social security application for disability, for about a year due to her back and her “mental.” She agreed that she was completely incapable of working and earning a regular wage. She also admitted that at some point she decided the SSDI benefits were too low, and she returned to work without any medical assessment or change in her restrictions.

The following questioning then occurred:

Q: So how does that work if you’re completely incapable, under restrictions, drawing a benefit, and you decide that’s not enough money, you go to work without anything changing as far as your medical condition? Can you explain that for me?

A: Because I have to make money to survive like everybody else.

Q: Well, if you could go to work in the same condition, you had been in when you were drawing social security disability, do you agree that you weren’t actually disabled while you were drawing social security disability?

A: I don’t agree to that.

Q: Okay. Then how were you able to go to work the moment you decided you wanted to go to work?

A: Because I had to survive.

The claimant agreed that she denied having any previous injuries, symptoms, problems, or conditions involving her mid-back when her deposition was taken. (Tr. 19, 20)

When the Claimant was questioned about the mention of mid back issues in her medical records, she agreed that there was not going to be any mention of mid-back pain in her medical records until after the accident. The Claimant was then specifically asked about page 62 of Respondent's medical packet and the visit to the doctor where the report provided for mid-back pain averaging seven (7) and spiking up to a ten (10) on November 12, 2024, just a few months before the alleged injury date. When asked if she was aware of it, Claimant responded, "Apparently I was there." She was then questioned about page 70 of the Respondent's medical packet where on December 10, mid-back pain was again mentioned in the medical. She was also questioned about mid-back pain being referred to on page 75 of Respondent's medical packet on the date of January 7, 2025, and again about mid-back pain being referred to on page 83 and pages 84 through 86 of Respondent's medical packet on January 29, 2025, where the reports mentioned trigger points, trigger point spasms, and knots in her back. (Tr. 21)

The following questions were then asked and responded to by the Claimant:

Q: Assuming these medical records are correct - - which I'm not hearing you dispute that they - - they are - - you will agree with me a statement to me in your

deposition under oath that you did not ever have any prior symptoms, problems, injuries, or conditions in your mid-back was not a true statement, was it?

A: I've always had problems with my lower back, but not the mid-back. (Tr. 21)

Q: So, you dispute what's documented in your doctor of your choosing's records right there two, three, four, months before your accident date?

A: Well, if it's there, it's there.

Q: Okay. So, if it's there and you're telling the doctor you have mid-back pain and he's documenting that back pain, when you told me in your deposition you did not ever have any mid-back pain, that was not true, was it?

A: I guess not. No, I guess, because I don't remember going to the doctor and having mid-back pain.

Q: You're at the - -

A: But if it's there, it's - -

Q: You're at the doctor within 60 days of the alleged injury date, and your testimony under oath is you don't remember having any pain in your mid-pack, is that - - is that your testimony?

A: I'm saying that's my testimony.

Q: Okay. Well, is it true?

A: I don't remember having the pain in my back.

Q: You suffered a fall within a month prior to March 23, 2025, didn't you?

A: Yes, I did.

Q: The doctor noted on Page 91 of my medical packet, March 3, says you fell two or three weeks prior, and you felt a pop when you fell.

A: In my lower back, yes.

Q: Is that true?

A: In my lower back.

Q: You've discerned where the pop came from?

A: You could feel it.

Q: Okay, you don't dispute that, that you fell and you felt a pop, though?

A: Oh, I knew when I fell, yeah.

Q: That was, I guess, the latter part of February of 2025?

A: Yeah.

Q: Okay.

A: It had to do with my heart. (Tr. 22, 23)

The Claimant was then questioned about taking Tizanidine, Percocet, and Meloxicam prior to her work-related accident and the Claimant admitted that she was in fact taking them. (Tr. 24) She was also questioned about the time of the work-related accident and responded that it had occurred at approximately 1:00 o'clock on the 23rd. She was then asked about retaining counsel, and filing a Form C, by 12:40 the next day, less than 24 hours later. The Claimant responded "Yeah, because the doctor told me that they would not cover my bills - -". She went on to say that she was told they were not going to cover her bills. (Tr. 23)

The Claimant admitted that she initially presented her employer with some documentation saying that she should be off work a week and then another week, but then didn't bring Kari or anyone else any off-work slips. She also admitted the Respondent employer was trying to find her and determine why she wasn't working and not showing

up for shifts she was already on. She also admitted that she never returned to work for respondents. (Tr. 26) She also agreed that her employment was terminated after several weeks or maybe a month. (Tr. 27)

On redirect, the Claimant testified that she had not returned to work anywhere because she was unable to stand, sit, or lift, for a long period of time. At this point, the Claimant rested. (Tr. 28)

The Respondents called Kimberly Simino, as their first witness, a nurse for Respondents, back in March of 2025, and who had an opportunity to know and work around the Claimant. Ms. Simino testified that she participated in an investigation involving the Claimant's alleged injury. She agreed that the Claimant had told her that she was hurting from a previous car accident and needed to go home. When asked if there was any doubt in her mind the Claimant told her that the car accident was the source of her back pain, Ms. Simino replied "No, no doubt." She agreed that she had no reason to make up her response and would not receive a bonus for it. She also agreed that she had fielded reports before and turned them over to HR or the administration. She turned the report over to her RN Supervisor and "I told her she said that she had hurt her back, and it was a chronic injury from a car wreck, and she needed to go to the hospital to get it checked out." (Tr. 30, 31)

The Respondents then called Emily Sueann Dailing. She testified that she was a Registered Nurse working for the Respondents as the Assistant Director of Nursing and was specifically employed in that position on March 23, 2025. She was on call and fielded the initial call from the Claimant while attending church. She agreed that Claimant had stated that her back was acting up. The following questioning then occurred:

Q. And did you ask her if this was something that happened at work or whether it was not work-related?

A: Yes.

Q: And did she represent to you that it was a non-work-related problem?

Yes. The exact word she used was "chronic."

Q: Chronic, okay. And was she asking to go to Access, the company doctor, or to the ER.

A: She asked to go to the ER.

Q: Okay. And is it a practice of Hiram Shaddox (Respondents) to send people to the ER for back strains, back pulls, shoulder, knee, if it's not an emergent situation?

A: No. If you are a workman - - If it's a workman's comp-related injury and it's not emergent, we do not go to the ER. (Tr. P. 33 – 35)

Ms. Dailing went on to testify that being on-call really is for staffing emergencies when someone doesn't come in or someone has to call out because she is sick and so when the Claimant was calling to notify her, so that if she did need to go, then I could find coverage or then I could just go in. In regard to the conversation with the Claimant, Ms. Dailing testified "I can remember the conversation vividly, everything about it." She denied receiving any bonus for preventing workers' compensation claims and further stated, "In my opinion, if you get hurt at work and we can - - and you need that workman's comp, that's what it is there for, and we're going to try our best to retain you because we are all about retention." (Tr. P. 36, 37)

The Respondents then called Shawnia Young, who testified that she works as the personnel director for the Respondents. She denied that anyone in administration or

management was made aware of the Claimant's preexisting back problems, when she was hired. She was not aware that the Claimant had in fact had two back surgeries including a fusion and she wasn't aware of the contention that the Claimant made about a permanent 50-pound lifting restriction. She also agreed that if she had been aware of the significant back problems, the Claimant would not have been placed in a CNA position in the facility. She stated, "Our job description states that you have to be able to lift 35 to 50 pounds and be able to push, pull, and move a distance." She also agreed that each patient has an individual care plan, and in regard to this particular patient, the plan called for a "multi-person assist" to turn him. (Tr. P. 39 - 41)

The Respondents then called Kari Novak as their fourth and final witness. She testified that she is a Registered Nurse working in the Director of Nursing position for the Respondent. She knew and had worked with the Claimant and had interviewed her when she was hired and that she had previously worked for the Respondents. The Claimant was familiar with the type of work she would be doing. In the interview process, Ms. Stiles would have provided a description of the job and the physical requirements. Ms. Novak went on to agree that the Claimant had never informed them of a 50-pound lifting restriction and of hardware in her back. She stated, "If I had known that she had a lifting restriction of 50 pounds, I would not have hired her for the position." She also agreed that even if she did not have a lifting restriction, it would not have been appropriate for her to be doing a transfer or repositioning of a very large patient. She also agreed that a bariatric patient was someone between 250 and 350 pounds and due to their size, they may be placed in larger equipment and that they required two people to deal with their mobility. This would have been documented in their care plan. "So, the expectation and the training

is that nurses and CNA's work together, so if the CNA cannot find another CNA to assist them, then the nurse is the next appropriate person to ask." She went on to testify that she participated in trying to reach out to the Claimant multiple times to see if the Claimant needed to be on the work schedule and that the Claimant was unresponsive to the inquiries. (Tr. 42 – 47)

The Claimant's medical Exhibit consisted of 27 pages. Claimant presented to Access Medical Clinic on March 23, 2025, where she was seen by S. Leigh, APRN. The report provided for an onset of symptoms on that day when the Claimant reached over a bed to pull a patient and felt a sharp pain in her right lower back that radiated down her left leg. The Claimant reported a past history of back surgery. A CT of the lower spine was ordered and there were no acute findings. (Cl. Ex. 1, P, 1,2) The discharge instructions did not give a date for restrictions to apply through and provided that the Claimant should be able to participate in all duties and activities due to the lack of a date. (Cl. Ex. 1, P. 3,4)

The Claimant returned to Access Medical on March 28, 2025, where she was seen by J. Steves, APRN, with the report stating it was a follow up Workers' Compensation visit. The report provided that the Claimant was suffering from chronic back pain that was being treated with prednisone, and that Claimant was complaining of low back pain, which was increasing, swelling across the back and numbness to the lateral right thigh. The report provided for a lumbar sprain with tenderness to palpitation of the lumbar region musculature and spine, and listed a low back strain, a lumbar sprain, and right sided sciatica. The report provided that the claimant did not work for 14 days. (Cl. Ex. 1. P. 5 – 9) The Claimant then again returned to Access Medical on April 2, 2025, where she was

again seen by J. Steves, APRN. The report provided that it was a follow up for a Workers' Compensation Claim. The report provided that the Claimant had not obtained X-rays yet and was assessed with low back pain, lumbar sprain, and right sided sciatica with lumbar radiculopathy. The Claimant was instructed to stay as active as possible but to stop or reduce any activity that caused pain. (Cl. Ex. 1, P. 10 – 14)

An MRI of the spine both with and without contrast was taken on April 23, 2025. This was compared to an MRI of October 29, 2022. Under impression, the report provided that there was a postop surgical change at the L4-5 level without spinal or foraminal stenosis with no abnormal enhancement. A right paracentral disc herniation was noted at T12 – L1 causing mild to moderate lateral recess narrowing. No cord compression was seen and no foraminal stenosis was identified and no other lumbar abnormalities were noted. (Cl. Ex. 1, P. 15, 16)

On December 5, 2025, the Claimant was admitted to Cox Health in Harrison, discharged the next day, and seen by Dr. Angela N. Spurgeon. The report provided that the Claimant presented to discuss imaging and was last seen in October for mid and low back pain with radicular pain in both legs. There was a history of a lumbar fusion with only a short relief of pain after surgery in 2023. The pain was constant, and the Claimant reported balance problems. Under assessment and plan, the report provided for lumbar radiculopathy, lumbar spondylosis, and a S/P lumbar spinal fusion at L4-5. Various previous imaging modalities were reviewed. The Claimant's primary complaint was for low back pain and right greater than left leg pain. Findings were suggestive of chronic right radiculopathy. The report provided it was felt that the Claimant would not benefit

from a lumbar fusion, but a spinal cord stimulator was discussed and agreed to. (Cl. Ex. 1, P. 17 – 21)

The Claimant had previously been admitted to Cox Health on October 3, 2025, for one day. The report on the above date provided the Claimant presented to discuss mid and low back pain with radicular pain in both legs. The report provided that the Claimants history provided for a previous neck surgery and a back surgery in 2023. The report again provided that Claimant's primary complaint was low back pain and right-greater-than-left leg pain. The Claimant was seen by Dr. Angela N. Surgeon. (Cl. Ex. 1, P. 22 – 26)

The Respondents also submitted a medical exhibit that was admitted into the record without objection. An MRI of the lumbar spine from Baxter Regional dated September 29, 2021, provided there was a mild degenerative concentric disc bulge at T12-L1. Additionally moderate bilateral facet degeneration hypertrophy at L4-5 as well as a synovial cyst coming from the facet on the left was observed. This caused severe synovial foraminal stenosis on the left at L4-5 and also displaced the right L5 nerve root within the lateral recess. Additionally, there was a mild stenosis on the left at L4-5. (Resp. Ex. 1, P. 1,2) A CT of the Lumbar spine dated May 15, 2022, again from Baxter Regional, provided postoperative findings at the level of L4-5, and within the posterior soft tissues. If the symptoms persist, the report provided that an MRI of the Lumbar spine might be beneficial. (Resp. Ex. 1, P. 3)

On June 15, 2022, the Claimant presented to Baxter Regional for an MRI of the Lumbar Spine and a comparison with the CT from May 15, 2022, and the MRI from September 29, 2021. The report provided under impression that a previous laminectomy at L5 showed no apparent complication. Some edema in the pars intra- articularis

bilaterally at L5 might indicate developing spondylolysis. There was no apparent fracture or bony defects. Moderate bilateral facet degenerative change at L4-5 and mild degenerative disc changes were seen. No spinal stenosis was seen but moderate bilateral foraminal stenosis was observed at L4-5. (Resp. Ex. 1, P. 4,5)

Another CT scan was provided at Baxter Regional on September 2, 2022. Post-surgical changes along with spinal spondylosis was again noted. There was air at the level of the L4-5 region adjacent to the thecal sac, but it could have been arising from the facet joint. There was more air in this region on the previous study of May 15, 2022, but the patient was recently postoperative at that time I believe. (Resp. Ex. 1, P. 6)

The Claimant obtained another MRI of the lumbar spine from Baxter Regional on October 29, 2022. The report provided under impression that there was a previous decompression at L4-5 and there was bilateral facet joint effusions and bilateral synovial cysts, which were unchanged on the right and new on the left. The results in the narrowing of the left lateral recess might impinge upon the traversing left L5 and left S1 nerve roots. There was also a mild narrowing of the central canal. The right sided synovial cyst was unchanged. (Resp. Ex. 1, P. 7,8)

Chart notes from the Washington Regional Family Clinic were also introduced for the period of November 29, 2022, through January 10, 2023. The Claimant was taking Sertraline, Gabapentin, Percocet, Levothyroxine Sodium, Meloxicam, Tizanidine, Lamotrigine, Abilify, and Trazodone. The records provided the Claimant had received neck and back surgery along with multiple other surgeries. The Claimant presented in November of 2022 for a review of issues involving her lumbar spine. She had a past history of ACDF (a type of surgery involving the neck) in 2018 and chronic low back pain

with radiation of pain along the posterior lateral left leg to the foot. She reported balance issues. A neurosurgery questionnaire provided that her worst pain was with her back, neck, and leg, and that she had suffered this pain since 2018. The chart notes referred to X-rays and MRI's involving Claimant's spine. It was noted that Claimant began taking Percocet as one of her medications. During this time period, there was a discussion about conservative treatment versus surgical treatment for the Claimant's lumbar pathology. There was a reference to chronic progressive back and bilateral pain. (Resp. Ex. 1. P. 9 – 31)

On January 6, 2023, through January 7, 2023, while at Washington Regional Medical Center, Claimant received a L4-5 posterior instrumented fusion with an insertion of a biomechanical interbody device via transforaminal lumbar approach for disc space arthrodesis at L4-5, plus a L4-5 posterolateral lumbar arthrodesis, with a decompression lumbar laminectomy at L4-5, bilateral L4-5 facetectomies with bilateral foraminotomies, and a harvesting of a local autograft and also the use of a cadaveric autograph. The report went on to provide that there were no issues or complications noted during the procedure. (Resp. Ex. 1, P. 32 -39)

A second set of Chart Notes from the Washington Regional Family Clinic for the period between February 14, 2023, thru July 14, 2024, provided that the Claimant was still receiving X-rays of her lumbosacral spine and still on multiple medications with many of the medications commonly used for pain, such as Oxycodone. X-rays taken in February of 2023, provided that the various pieces of hardware placed in her spine were in the proper place with good alignment and there was no evidence of hardware failure. The surgical incision appeared well healed with no signs of infection. It also appeared that the

Claimant continued to suffer issues with her back and again returned for X-rays of the lumbar region of her back on March 14, 2023, and the findings provided the fusion hardware was intact but that posterior decompressive laminectomy changes were noted. Stable multilevel facet degeneration was noted. X-rays of the lumbosacral spine were again taken on August 1, 2023, which showed stable alignment with no evidence of hardware failure. The report further provided that an MRI of the cervical spine was going to be repeated for Claimant's known pseudoarthrosis and C6 radiculopathy. A gradual increase in activity for the lumbar spine was discussed. The records seen to provide that numerous clinic appointments were not documented from March 7, 2023, thru July 17, 2024. (Resp. Ex. 1, P. 40 – 60)

Chart notes from Michael Mann, APRN, from July 30, 2024, thru November 12, 2024, provided that the Claimant presented for pain in her neck, middle back, and lower back. Claimant stated the pain was mainly in her neck and back. An inspection of her lumbar spine revealed hyperextension of her lumbar spine and bilateral palpitation of her lumbar facets reproduced back pain. (Resp. Ex. 1, P. 61- 65)

Another set of chart notes from the Washington Regional Family Practice Clinic for the period of November 18, 2024, thru November 25, 2024, provided that the Claimant continued to suffer lumbar back and neck pain with an increased frequency of headaches. (Resp. Ex. 1, P. 66 – 69)

The records provided that the Claimant again presented to Michael Mann, APRN, on multiple occasions for the period between December 10, 2024, thru January 29, 2025, with chronic pain complaints. The pain locations were her lower back, mid back, and neck, with the Claimant reporting that the pain was as high as a 9 out of 10. The plan provided

for the treatment of a chronic pain syndrome. The Claimant was still being prescribed Oxycodone for her pain. The Claimant returned on January 29, 2025, for an appointment for her chronic pain, but there was a lengthy evaluation regarding the Claimant's recent injuries to her left knee and wrist. The report provided that the multisite pain was currently worse in her neck, mid back, and low back. (Resp. Ex. 1, P. 70 – 87)

The Claimant again returned to the Washington Regional Family Clinic on March 3, 2025, for X-rays of her lumbosacral spine. The records provided that the Claimant had apparently fallen on the snow, and she had noticed increased low back pain with pain extending into her lateral legs with numbness and tingling into the planter surface of her feet. (Resp. Ex. 1, P. 88 – 92)

On March 21, 2025, the Claimant again presented to Michael Mann, APRN, and the chart notes provided for a refill request for Hydrocodone. (Resp. Ex. 1, P. 93) The Claimant then presented to Baxter Regional Medical Center on March 23, 2025, for a CT which was compared to the CT from February 21, 2025. Under impression, the report provided for the finding of no acute process, but did mention the previous posterior fusion and disc fusion at L4-5 and a laminectomy at L4-5 through L5. Degenerative lumbar spondylosis without stenosis was also noted with mild chronic foraminal stenosis on the left at L2-3, mild bilaterally at L3-4, and mild on the right at L4-5. (Resp. Ex. 1, P. 94-96)

The Respondents also submitted non-medical evidence that was admitted without objection as Respondents Ex. 2. The first set of documents were unemployment records from the Arkansas Department of Workforce Services for the period dated March 16, 2022. These documents provided that the Claimant applied for unemployment benefits on March 8, 2022, for the reason of a personal illness, injury, and due to a personal

disabling condition. The documents provided that the Claimant was employed by Twin Lakes Therapy and Living, when she became unable to work. The employer responded that the Claimant started work on July 21, 2021, with employment ending on February 25, 2022. A BRMC Neurosurgery and Spine note provided that the Claimant could return to work on March 7, 2022, with no more than two hours of continuance standing or walking and that she required frequent breaks. The records provided that the Claimant was discharged from work on March 8, 2022, due to the Claimant having violated company policy and apparently failing to call in and failing to show. The records further provided that due to a disabling injury, the Claimant was unable to perform suitable work and that consequently, she was ineligible for unemployment benefits. The records showed Claimant did not attempt to preserve her job prior to leaving. (Resp. Ex. 2, P. 1 – 25)

A second set of documents from the Arkansas Department of Workforce Services dated January 12, 2023, provided that the Claimant again filed for unemployment benefits with her employer being the Springs of Creekside Health, with her first day of work there being July 21, 2022, and her last day of work being November 25, 2022. The response from the employer provided the Claimant took a voluntary medical leave beginning November 25, 2022, and that the last time they touched base with her, the Claimant was waiting for surgery. (Rest. Ex. 2, P. 26 -32)

A third set of documents from the Arkansas Department of Workforces Services dated February 2, 2023, provided that the Claimant again filed for unemployment benefits with her employer again being the Springs of Creekside Health. The Claimant contended she was unable to perform her normal job duties due to a personal disabling condition and that her job made her back issue worse. The documents provided that the Claimant

asked for and was granted a leave of absence. The response from the employer provided that the Employee took a voluntary medical leave of absence and had not returned and that they had not heard anything about a return-to-work date. Her employment began on July 21, 2022, and ended on November 24, 2022. (Resp. Ex. 2, P. 33-44)

A fourth set of documents from the Arkansas Department of Workforce Services dated July 8, 2024, provided that the Claimant again filed for unemployment benefits on January 8, 2024, with the employer being Gassville Nursing Center. The Claimant contended that the employer did not follow its policies and that the reason for her absence was personal illness. The employer responded that the Claimant's last day of work was December 29, 2023, and that she texted her supervisor stating that she quit. (Resp. Ex. 2, P 45 – 50)

The records also included documents from Respondent Hiram Shaddox Health & Rehab dated March 12, 2025, which included the job description for a Certified Nursing Assistance. Among the multiple requirements spelled out, the employee must be able to push, pull, move, and/or lift a reasonable number of pounds (35/50) to a reasonable height (3-5 ft.) and be able to push, pull, move, and/or carry such weight a reasonably minimum distance (5-10 ft.). (Resp. Ex. 2, P. 51 – 61)

The Respondents also included text messages and the dates of phone calls from March 15, 2025, through April 25, 2025, between the Claimant and the Respondent employer. The records provided there were numerous texts and calls made to the Claimant by the Respondent. It appeared that the Claimant did respond on Sunday, March 23 at 10:47, stating "Ok thanks for checking on me." A response to the Claimant provided the Respondent had changed the Claimant's schedule to "3p-7p until you can

do an 8-hour shift and have your back issues under control." One text inquired about the Claimant's restrictions and Claimant responded that she was having back issues. She later texted, "Call my lawyer, I'm not a load (sic) to talk about case in hand." Another text from the Respondent provided that the Claimant was unexcused until they received the paperwork requested. The Claimant was also questioned about her leave of absence paperwork. The Claimant eventually asked about workers' compensation and was informed that this matter was not a workers' compensation claim. (Resp. Ex. 1, P. 62 – 80)

A Form AR-N dated March 23, 2025, provided that the Claimant's date of injury was March 23, 2025. (Resp. Ex. 2, P. 82) Claimant filed an AR – C form dated March 24, 2025, stating she injured her back in a work-related injury. (Resp. Ex. 2, P. 83)

Employee Memorandum Witness statements were also made part of the record. A facility employee signed a statement on March 23, 2025, that the employee was outside on break with another employee when the Claimant came out. The employee was apparently also having back issues and was telling another employee about what the doctors plan was for her. The Claimant overheard the conversation and told the employee that she "wouldn't do what they all are telling me to do." The Claimant went on and stated that she had hurt her back while turning a patient. A second Employee Memorandum dated March 25, 2025, provided that the CNA (referring to the Claimant) stated that her back hurt from a previous car wreck and asked to go home. The memorandum from a LPN further stated that the Claimant had not asked for assistance from her to turn or transfer a resident. The third Memorandum which was dated March 26, 2025, and made by Emily Dailing, who also testified, provided that she was on call when she received a

phone call from the Claimant, who stated that her back was hurting and that she needed to go to the ER. The memorandum provided that the back issue was a chronic problem and that she had back pain for a while. The Claimant was questioned about this being a workers' compensation claim, and the Claimant responded no, that it had been going on for a while. (Resp. Ex. 1, P. 84 – 86)

A First Report of Injury Form was prepared on April 2, 2025, which provided that the Claimant suffered a sprain/strain of the lumbar back. (Resp. Ex. 2, P. 87) A Termination of Employment document dated April 25, 2025, provided that the Claimant's employment was terminated and that her last day of work was March 23, 2025. (Resp. Ex. 2, P. 88)

DISCUSSION AND ADJUDICATION OF ISSUES

In regard to the primary issue of compensability, the claimant has the burden of proving by a preponderance of the evidence that she is entitled to compensation benefits for the claimed injury to her back. In determining whether the claimant has sustained her burden of proof, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party. Ark. Code Ann. 11-9-704. Wade v. Mr. Cavananugh's, 298 Ark. 364, 768 S.W. 2d 521 (1989). Further, the Commission has the duty to translate evidence on all issues before it into findings of fact. Weldon v. Pierce Brothers Construction Co., 54 Ark. App. 344, 925 S.W.2d 179 (1996).

In regard to the current claim before the Commission, Claimant contends that she injured her back on March 23, 2025, while attempting to move or turn a large resident of the facility who was covered with feces and flashing his call light. She testified that she attempted to obtain help, and when help failed to arrive, she pulled the draw sheet to turn

the patient by herself and as she pulled, he went to the right side of the draw sheet, and she felt some pain in her lower back. After this occurred and once finished with her task, she went to the nurses’ station, told the charge nurse about what happened, and was then sent to the emergency room. She testified that the injury to her back was above the lumbar region and in the middle of her back. She stated that she was sent to the emergency room at Baxter Regional where she received X-rays and CAT scans.

Under cross examination, the Claimant was questioned about failing to mention that the resident was covered with feces during her deposition. She responded that “I – don’t have an answer for that.” When the Claimant was questioned about the Respondent attempting to contact her in regard to off work slips and FMLA, she responded that she had run out of cell phone minutes. Then when questioned about the Respondent receiving text messages from her, she then responded that she had some cell phone time available during that period. She admitted having two previous back surgeries and that she had been instructed by her doctors to not lift over 50 pounds. She claimed that she had discussed that fact with the Respondent when she was hired. She also admitted that she had been approved for Social Security Disability but could not survive on the payments and then returned to work. She agreed that she was completely unable to work and returned to work without a new medical assessment.

The Claimant was also questioned about her mention of mid back pain, and she stated that she continued to hold the position that there was not any mention of mid back pain in her medical records. When she was specifically questioned about the appearance of mid-back pain appearing in her medical records with the pain measuring a seven (7) and spiking to a ten (10) on November 24, 2024, a date prior to the claimed Workers’

Compensation Injury, and when asked if she was aware of it, she responded “Apparently I was there.” Under additional cross examination, she stated she had always had problems with her lower back but not her mid-pack. When specifically questioned about medical records providing for mid-back pain, she responded that she did not remember telling a doctor that, even though that particular-doctor visit was within 60 days of the alleged injury date. When asked if no mid-back pain was her testimony, she responded “I’m saying that is my testimony.”

The Respondents called nurse Kimberly Simino who testified that she knew the Claimant and had participated in an investigation of the Claimant’s alleged injuries. She testified that the Claimant had told her that she was hurting from a previous car wreck injury and needed to go home. Emily Sueann Dailing, a Registered Nurse who worked for the Respondents as the Assistant Director of Nursing, and who was on call and at church when she received a call from the Claimant, testified that the claimant stated on the phone that she was suffering from a chronic problem and asked to go to the ER. The Respondents also called Shawnia Young, the personnel director for the Respondents. She testified that no one in administration or management was aware of the Claimant’s back problems when she was hired, and they were not aware of the 50-pound lifting restriction and the Claimant’s preexisting back problems. The final witness for the Respondents was Kari Novak, a Registered Nurse, and the Director of Nursing for the Respondents. She testified that she would not have hired the Claimant if she was aware of her lifting restriction and even without the restriction, the Claimant should have not been moving bariatric patients by herself. She also testified that she had reached out to

the Claimant multiple times after the alleged work incident and the Claimant was unresponsive.

In regard to the claimant's medical that was entered into the record, the initial visit to Access Medical Clinic on March 23, 2025, and S. Leigh, APRN, included a CT of the lower spine that provided for no acute findings. The Claimant returned to Access Medical on March 28, 2025, and the report provided that it was a follow up for a workers' compensation claim and that the Claimant was suffering from chronic back pain that was being treated by Prednisone. The Claimant's medical provided for a history of lower and mid back pain, with a lumbar fusion in 2023. The records also provided for a neck surgery in 2023.

The Respondents medical exhibit provided Claimant received an MRI on September 29, 2021, which provided for a mild degenerative concentric disc bulge at T12-L1, along with moderate bilateral facet degeneration hypertrophy at L4-5. She received a second MRI at Baxter Regional on May 15, 2022, of her lumbar spine and the report mentioned a previous CT on May 15, 2022, and the two imaging modalities were compared.

The multiple medical records entered into the record by the Respondents provided that the Claimant had received multiple MRI's and X-rays regarding her back, was on various pain killers, and had been seen by Michaeal Mann, APRN, for chronic back pain for the period before the alleged work related incident as recently as December 10, 2024, through January 29, 2025, and was seen for pain in her neck, middle back, and lower back. The Claimant's last visit to Michael Mann, APRN, prior to the alleged workers' compensation claim was on March 21, 2025, for a refill of Hydrocodone. It is also noted

that when the Claimant presented to Baxter Regional Medical Center on March 23, 2025, for a CT, which was compared to a previous CT on February 21, 2025, the report provided for no acute process.

Under workers' compensation law in Arkansas, a compensable injury must be established by medical evidence supported by objective findings and medical opinions addressing compensability and must be stated within a degree of medical certainty. Smith-Blair, Inc. v. Jones, 77 Ark. App. 273, 72 S.W.3d 560 (2002). Speculation and conjecture cannot substitute for credible evidence. Liaromatis v. Baxter County Regional Hospital, 95 Ark. App. 296, 236 S.W.3d 524 (2006). More specifically, to prove a compensable injury, the claimant must establish by a preponderance of the evidence: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings, as defined in A.C.A. 11-9-102 (16) establishing the injury and (4) that the injury was caused by a specific incident and identifiable by time and place of occurrence. If the claimant fails to establish any of the requirements for establishing the compensability of the claim, compensation must be denied. Mikel v. Engineered Specialty Plastics, 56 Ark. App. 126, 938 s.W.2d 876 (1997).

An injury for which the claimant seeks benefits must be established by medical evidence supported by objective findings which are those findings that cannot come under the voluntary control of the patient. A.C.A. 11-9-102 (16). It is also important to note that the claimant's testimony is never considered uncontroverted. Lambert v. Gerber Products Co. 14 Ark. App. 88, 684 S.W.2d 842 (1985).

Here the medical records clearly provide that the claimant suffered from lower and middle back issues and even neck problems for a number of years prior to the alleged workers' compensation injury. Under Arkansas Workers' Compensation law, it is also clear that an employer takes the employee as it finds him or her and employment circumstances that aggravate preexisting conditions are compensable. Heritage Baptist Temple v. Robinson, 82 Ark. App. 460, 120 S.W.3d 150 (2003).

Further, a claimant is not required in every case to establish the casual connection between a work-related incident and an injury with an expert medical opinion. See Wal-mart Stores, Inc. v. VanWagner, 337 Ark. 443, 990 S.W.2d 522 (1999). Arkansas courts have long recognized that a causal relationship may be established between an employment-related incident and a subsequent physical injury based on evidence that the injury manifested itself within a reasonable period of time following the incident so that the injury is logically attributable to the incident, where there is no other reasonable explanation for the injury. Hail v. Pitman Construction Co. 235 Ark. 104, 357 A.W.2d 263 (1962).

Here, the claimant suffered with lumbar spine, mid-spine, and neck injuries, for years prior to the claimed work-related injury. It is clear that the job of a CRNA is difficult but important in the care of patients and residents. With that said, it is also found and determined that the Claimant's testimony was at times an improvement on the facts. The testimony in regard to the comments and actions by the Claimant that was provided by the four witnesses who worked with the Claimant is clearly entitled to more weight. Additionally, no medical reports of record make objective findings that connect the claimed injury on March 23, 2025, to the chronic back problems of the Claimant.

As stated above, the workers' compensation claimant bears the burden of proving the compensable injury by a preponderance of the evidence. A.C.A. 11-9-102 (4) (E) (i). A compensable injury is one that was the result of an accident that arose in the course of his or employment and that it grew out of or resulted from the employment. See Moore v. Darling Store Fixtures, 22 Ar. App 21, 732 S.W.2d 496 (1987) Preponderance of the evidence means the evidence having greater weight or convincing force. Metropolitan Nat'l Bank v. La Sher Oil Co., 81 Ark App. 263, 101 S.W.3d 252 (2003). Based upon the available evidence in the case at bar, there is no alternative but to find that the Claimant has failed to satisfy the required burden of proof to show that the claimed injury to her back on March 23, 2025, is in fact work related and compensable under the Arkansas Workers' Compensation Act.

After weighing the evidence impartially, without giving the benefit of the doubt to either party, there is no alternative but to find that the Claimant has failed to prove by a preponderance of the credible evidence that her claim for an injury to her back, whether middle or lower, on March 23, 2025, is a compensable claim under the Arkansas Workers' Compensation Act. Consequently, all other issues are moot. If not already paid, the respondents are ordered to pay the cost of the transcript forthwith.

IT IS SO ORDERED.

____
JAMES D. KENNEDY
Administrative Law Judge