IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED
November 10, 2026
ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

MEDICAL LICENSE PRO, LLC,
Employer Below, Petitioner

v.) No. 26-ICA-80 (JCN: 2023020087)

ANGELA SCHOLL,
Claimant Below, Respondent

and

WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER,
Respondent

MEMORANDUM DECISION

Petitioner Medical License Pro, LLC, ("Medical License") appeals the February 3, 2026, order of the Workers' Compensation Board of Review ("Board"), which modified the claim administrator's July 25, 2023, order to hold the claim compensable for a displaced unspecified condyle fracture of the lower end of the left femur-closed fracture and a displaced fracture of the medial plateau/condyle of the right tibia-closed fracture; reversed the claim administrator's November 12, 2023, order and granted Respondent Angela Scholl temporary total disability ("TTD") benefits; and affirmed the claim administrator's April 29, 2024, order which added valgus deformity of the right knee, osteoarthritis of the right knee aggravation/progression, and right artificial knee joint as secondary compensable conditions and denied the compensability of various other secondary compensable conditions. Ms. Scholl filed a response. Medical License did not file a reply.[1] The West Virginia Offices of the Insurance Commissioner did not participate in this appeal.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the Board's order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

[1] Medical License is represented by Melissa M. Stickler, Esq. Ms. Scholl is represented by Edwin H. Pancake, Esq.

Ms. Scholl was employed as a medical licensing advocate for Medical License and worked remotely from her home in West Virginia.[2] On September 6, 2022, Ms. Scholl was seen at Thomas Memorial Hospital's emergency department with complaints of severe knee pain after falling down three stairs at her home. Ms. Scholl was admitted to the hospital, and the clinical impression was a fracture of the right tibial plateau and a left femoral epicondyle fracture.

On December 18, 2022, Ms. Scholl submitted an Employee's Report of Occupational Injury and Proof of Employment[3] stating she was injured on September 6, 2022, at approximately 1:50 p.m. She stated that she was working in her downstairs home office when she went upstairs to check if a work-related United Parcel Service ("UPS") package had arrived. When she was walking back down the stairs to her home office, she fell and sustained a right tibia fracture and a left tibia plateau injury. On April 25, 2023, Ms. Scholl underwent surgical removal of hardware in her right leg. On July 25, 2023, the claim administrator found this claim compensable for a displaced unspecified condyle fracture of the lower end of the left femur-closed fracture and a displaced fracture of the medial plateau/condyle of the right tibia-closed fracture. The claim administrator also found Ms. Scholl was conditionally eligible for TTD benefits from October 2, 2022, through April 25, 2023.

On August 18, 2023, Ms. Scholl submitted an Attending Physician Benefits Form signed by Phillip Surface, D.O., stating she had been disabled since September 6, 2022, and it was estimated that she would not be able to return to work until December 26, 2023. Dr. Surface indicated that Ms. Scholl had not reached maximum medical improvement and was scheduled to undergo surgery on September 26, 2023.

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[2] The record on appeal does not contain all of the records provided to the Board, including surgery records and various affidavits, and this Court can only consider the documents provided by the parties on appeal. In this case, we note that our review is hampered by Medical License's failure to file an appendix that complies with the requirements set forth in Rule 12(f) of the West Virginia Rules of Appellate Procedure. Medical License failed to provide this Court with an appendix that "accurately reflect[s] the relevant documents submitted in the administrative proceedings" and "include[s] all relevant medical reports, psychological reports, vocational reports, transcripts, correspondence, orders, and other written material that is necessary for a fair consideration of the issues on appeal." We also note that its appendix does not include a table of contents or page numbers. Nevertheless, we will consider and rule on this appeal with the information provided.

[3] Ms. Scholl filed a workers' compensation claim with the Office of the Insurance Commissioner's Uninsured Employer Fund because Medical License does not have workers' compensation coverage in West Virginia.

On October 28, 2023, David L. Soulsby, M.D., signed an Independent Medical Evaluation addendum report opining that a right total knee arthroplasty was necessary to correct the damage from the tibial plateau surface, which was caused by her workplace injury. Dr. Soulsby stated that Ms. Scholl sustained a badly comminuted bicondylar fracture of the right tibial plateau and that x-rays from the date of injury demonstrated minimal to mild osteoarthritis in the right knee. He further stated that the fracture was repaired and has healed, but the knee either could not be fully elevated to the anatomic alignment or the improved alignment obtained with surgery was partially lost in the first few months. He stated that this resulted in an unacceptable degree of depression of the posterior aspect of the medial tibial plateau, which created arthritic pain. On November 12, 2023, the claim administrator found Ms. Scholl failed to provide sufficient medical information to support continued TTD benefits and closed her claim. Ms. Scholl protested this order.

On April 9, 2024, Dr. Surface signed a Diagnosis Update requesting that valgus deformity, osteoarthritis of the knee, and a history of a total knee replacement be added as compensable diagnoses in the claim. He stated that Ms. Scholl required a total knee arthroplasty because she had developed a fracture deformity with valgus and posterior slope; had endured significant osteoarthritis of the right knee due to the sustained trauma of the knee; and the total knee replacement was necessary to correct the articular surface of Ms. Scholl's tibial plateau. On April 29, 2024, the claim administrator entered an order adding valgus deformity of the right knee, osteoarthritis of the right knee aggravation/progression, and right artificial knee joint as secondary compensable conditions and denied thrombophilia, complex regional pain syndrome type 1 of the lower extremity, reflex sympathetic dystrophy of the lower right limb, and trochanteric bursitis of the right hip as secondary compensable conditions.

At a deposition on May 20, 2024, Kathryn Perkins testified that she worked as a licensing advocate for Medical License since September of 2020 and attended a work meeting on September 2, 2022, where David Luc, the president of Medical License, stated that Ms. Scholl and two other employees were going to be laid off on September 6, 2022. Ms. Perkins stated that she spoke with Ms. Scholl following her fall and Ms. Scholl stated that she fell while going down the stairs to check on something for work or for her cat. Ms. Perkins did not know whether Ms. Scholl knew about the layoff prior to her injury. Also on May 20, 2024, Jennifer Edwards was deposed and testified that she worked as an executive assistant at Medical License for three years and was also present at the September 2, 2022, work meeting where layoffs were discussed. Ms. Edwards stated that she never discussed the layoff with Ms. Scholl and did not discuss how her injury occurred. She further testified that company policy did not require employees to have the UPS notification system to determine when packages would be delivered. On that same date, Jessica Hodge was deposed and stated she worked as a medical licensing advocate for Medical License for two years, was present at the work meeting on September 2, 2022, that

she did not speak to Ms. Scholl after the meeting, and was unaware if anyone advised Ms. Scholl that she was to be laid off.

On May 20, 2024, Whitney Holmes testified that she has worked for Medical License for five years, was Ms. Scholl's direct supervisor, and reported that UPS package deliveries varied depending on how many applications were pending and she usually checked her UPS box once a day. On May 20, 2024, Amy Layhay was deposed and testified that she works as a licensing advocate lead for Medical License and that Ms. Scholl called her after her injury but prior to her surgery to ask if she was going to be laid off. Ms. Layhay stated that Ms. Scholl was aware that two other employees had already been laid off but Ms. Lahay told Ms. Scholl that she would need to speak to Mr. Luc about the layoffs. On August 23, 2024, Mary English, an employee by Medical License for four years, testified that she was present at the meeting held on September 2, 2022, where Ms. Scholl's layoff was discussed, and had heard from another employee that Ms. Scholl was made aware of her impending layoff at some point. Ms. English further testified that she received email notifications from UPS when a work-related package was delivered to her home.

At another deposition on August 23, 2024, Kelly Hanks, the director of licensing for Medical License and one of Ms. Scholl's supervisors, testified that on the day Ms. Scholl was scheduled to be laid off, she received a text message from Ms. Scholl around 1:00 or 1:30 p.m. stating that she was leaving work early and would explain later. The next day, Ms. Scholl called Ms. Hanks and advised her of her injury. According to Ms. Hanks, Ms. Scholl told her that she fell down her stairs when her new orthopedic shoes got stuck on carpet. Ms. Hanks testified that Ms. Scholl explained that she had jumped up to check her clothes dryer, after hearing it turn on, because she was afraid that her recently acquired kitten might be in the dryer. Ms. Scholl told Ms. Hanks that she fell forward down the bottom two steps in her basement. Ms. Scholl did not allege during this conversation or any subsequent conversations with Ms. Hanks that her fall was related to her employment. Ms. Hanks further testified that she had no reason to believe Ms. Scholl knew that she was to be laid off prior to her injury, and Ms. Hanks receives an electronic notification every time a work-related piece of mail is delivered to her residence.

On January 27, 2025, Mr. Luc testified at a deposition that Ms. Scholl began working for Medical License in August of 2021 and she worked remotely from her home in West Virginia. He testified that Ms. Scholl and two other employees were scheduled to be laid off on September 6, 2022, due to a decrease in Medical License's work volume and Mr. Luc announced these layoffs during a team meeting held in early September of 2022, when Ms. Scholl and the other employees set to be laid off were not present. On September 6, 2022, Mr. Luc informed the other two recent hires that they were going to be laid off, but he was unable to contact Ms. Scholl because she had informed Ms. Hanks that she had left work early. On September 7, 2022, Ms. Hanks advised Mr. Luc that Ms. Scholl had fallen and was in the hospital. Mr. Luc testified that Ms. Scholl advised Ms. Hanks that her injury was work related. Following this conversation, Mr. Luc telephoned Ms. Scholl, and

she advised him that she had broken both legs after tripping and falling down her basement steps. She further stated that she had learned from a co-worker that some employees had been terminated, and that she was scheduled to be terminated as well. Mr. Luc told her to concentrate on getting better and that they would discuss her employment at a later date. Mr. Luc next spoke with Ms. Scholl on September 19, 2022, and she again inquired about her employment, and Mr. Luc told her that she could use her PTO. Although Mr. Luc had planned to terminate Ms. Scholl on September 6, 2022, he stated that he wanted her to focus on getting well.

Mr. Luc testified that he was first advised that Ms. Scholl alleged her injury was work related in an email sent on September 21, 2022, where Ms. Scholl stated that she was checking to see if a UPS package was delivered on her front porch when she fell down the stairs as she returned to her home office. Ms. Scholl also stated that she was aware that she was scheduled to be laid off, and Mr. Luc testified that it appears Ms. Scholl was aware of the layoffs on September 6, 2022. After receiving Ms. Scholl's September 21, 2022, email, Mr. Luc filed a workers' compensation claim with his workers' compensation carrier in Alabama but was advised that Medical License's policy did not cover workers' compensation claims outside of Alabama.

On November 3, 2025, Ms. Scholl was deposed and testified that she worked for Medical License as a licensure advocate and her office was located in the basement of her home in St. Albans, West Virginia. She stated that her job duties included reviewing emails, processing state medical licenses for medical providers, and sending completed license application packets through UPS. Once the medical provider had completed the licensing forms, the packet was sent back to Ms. Scholl via UPS for processing. Ms. Scholl stated she would routinely leave her basement office, go up her basement steps, and go to her front door to check for work-related deliveries. On September 6, 2022, Ms. Scholl started her workday between 8:00 a.m. and 9:00 a.m. in her basement office and went to check for work-related packages around 1:00 p.m. She stated that she did not receive a package, that her husband began preparing her lunch, and she went to return to her basement office to continue working. As she was going down the last three steps to her basement office, she caught her foot on something and fell. She stated that her steps were hardwood, that she was wearing tennis shoes, and there were no objects or defects in or around the steps that would have caused her to trip or slip. She believes she caught her foot, stumbled, and fell, which caused her to fracture both of her legs.

Ms. Scholl stated that she did not use the electronic notification system for her packages because it was not reliable and, as a result, she checked for work-related packages multiple times a day. She further denied telling anyone that she was checking on a new kitten when she fell, as she did not have a new cat or kitten at the time of her fall, and that the dryer was not in use at the time of her fall. She also testified that she was unaware that she was scheduled to be laid off until she arrived home from the rehabilitation center on September 27, 2022. In addition, Ms. Scholl denied that she had previously experienced

problems walking, falling, or losing her balance prior to this injury and she denied ever suffering any prior serious injuries to her legs. However, she had the ACL in her left knee surgically repaired in 2015 but denied any problems with walking or gait instability prior to the September 6, 2022, injury. She also admitted that she had typical aches and pains in her low back due to arthritis prior to her compensable injury but denied telling a doctor that she was having problems going up and down stairs prior to her compensable injury.

Medical License also submitted various medical records related to Ms. Scholl's prior medical conditions. On May 31, 2015, Ms. Scholl presented at Charleston Area Medical Center with complaints of left lower extremity pain and swelling after jumping off her couch and feeling a pop in her left leg. On September 23, 2015, First Settlement Physical Therapy issued a progress summary stating Ms. Scholl was unable to navigate stairs due to pain and instability, had impaired strength, and the physical therapist recommended six weeks of continued physical therapy. An x-ray of Ms. Scholl's left knee, performed on December 6, 2016, due to reports of knee pain, showed no evidence of a fracture or dislocation. On January 27, 2017, Ms. Scholl was seen for physical therapy with Charles E. Giangarra, M.D., and she was six weeks post left knee ACL reconstruction with allograft. Dr. Giangarra stated that she was doing well until she tripped and hyperextended her left knee, and his impression was status post ACL reconstruction and a mild sprain of the left knee.

On February 3, 2017, a progress summary from First Settlement stated Ms. Scholl was having difficulty with her left leg, was unable to walk for more than five minutes, continued to have swelling in her left knee, her gait pattern was limited and altered, and she was still having difficulty navigating steps and uneven surfaces. The therapist recommended six to eight weeks of physical therapy. Ms. Scholl was seen again by Dr. Giangarra on July 14, 2017, and was then three months status post left knee ACL reconstruction. She reported temporary swelling in her left knee and pain in the area of the iliotibial band, and Dr. Giangarra noted she had excellent range of motion in the left knee. Dr. Giangarra noted that she was doing well following her left knee ACL surgery, and he diagnosed iliotibial band friction syndrome. On October 22, 2018, Ms. Scholl was seen by Chad Lavender, M.D., and presented with right ankle and right knee pain. She reported increased pain with weight bearing activities and going up and down stairs. Dr. Lavender assessed right ankle pain, right knee pain, limb pain, left leg swelling, and deep vein thrombosis. He recommended diagnostic testing and physical therapy for range of motion and strengthening of the right lower extremity.

On December 31, 2018, Ms. Scholl underwent a left knee MRI which showed postsurgical changes from her prior ACL reconstruction, chondral fissuring at the patellar apex, and intermediate chondral thinning of the medial patellar facet articular cartilage. An x-ray of her left knee on July 15, 2019, revealed a prior ACL repair, and an x-ray of her lumbar spine on January 25, 2020, revealed chronic changes. Ms. Scholl also underwent an MRI of her lumbar and thoracic spine on March 3, 2020, due to complaints of cervical

pain, thoracic pain, lumbar pain, numbness and weakness in her arms and legs, and dizziness. The lumbar spine MRI revealed disc desiccation throughout the lumbar spine, which was worse at T12-L1, but it was noted that there was preservation of the central spinal canal diameter and exit foramina at all levels. The impression from the thoracic spine MRI was a tiny left disc herniation at T6-7 and a non-compressive protrusion at T7-8.

On April 20, 2020, Paul Ferguson, M.D., saw Ms. Scholl for a telehealth visit. Ms. Scholl reported a longstanding history of neck pain radiating into the upper limbs, chronic low back pain radiating into both lower extremities, trouble with her gait stability due to her low back and lower extremity symptoms, and frequent stumbling. She also reported bilateral distal paresthesia described as burning and tingling in her feet. Dr. Ferguson assessed numbness and tingling in both upper extremities and both lower extremities, chronic bilateral low back pain with bilateral sciatica, and chronic neck pain. Dr. Ferguson noted that her signs and symptoms were concerning for peripheral neuropathy and perhaps even entrapment neuropathy of the upper limbs. On June 16, 2020, Sohaib Malik, M.D., saw Ms. Scholl, noted that she had a history of left knee ACL repair and was recently diagnosed with left kneecap arthritis. She had received a left knee corticosteroid injection last August, and she requested and received a repeat injection at this appointment. Ms. Scholl also required a future right knee corticosteroid injection. On June 16, 2022, Ms. Scholl was seen by Lynn Moreland, APRN-FNP-C, and presented with complaints of vertigo, swelling in her neck, and ringing in her ears. FNP Moreland noted that Ms. Scholl had a history of neuritis in her legs and feet and assessed lumbar radiculopathy, sinusitis, and vertigo.

On February 3, 2026, the Board entered an order finding that the weight of the evidence established that Ms. Scholl sustained a personal injury in the course of and resulting from her employment and that she remained temporarily and totally disabled at the time her TTD benefits were suspended and later closed. The Board held that Ms. Scholl's injury resulted in the following compensable diagnoses: displaced unspecified fracture of the lower end of the left femur, closed fracture; displaced fracture of the medial plateau/condyle of the right tibia, closed fracture; valgus deformity, right knee; osteoarthritis of right knee, aggravation/progression; and right artificial knee joint. The Board ordered that the claim administrator's order dated July 25, 2023, be modified to reflect that the claim is compensable for a displaced unspecified condyle fracture of the lower end of left femur-closed fracture and a displaced fracture of the medial plateau/ condyle of right tibia-closed fracture and further ordered that the claim administrator's November 12, 2023, order was reversed and granted Ms. Scholl TTD benefits from the date of last payment through December 26, 2023, and thereafter as substantiated by proper medical evidence. Finally, the Board ordered that the claim administrator's April 29, 2024, order was affirmed. It is from this order that Medical License now appeals.

Our standard of review is set forth in West Virginia Code § 23-5-12a(b) (2022), in part, as follows:

> The Intermediate Court of Appeals may affirm the order or decision of the Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review's findings are:
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> (1) In violation of statutory provisions;
> (2) In excess of the statutory authority or jurisdiction of the Board of Review;
> (3) Made upon unlawful procedures;
> (4) Affected by other error of law;
> (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or
> (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Duff v. Kanawha Cnty. Comm'n*, 250 W. Va. 510, 905 S.E.2d 528 (2024).

On appeal, Medical License asserts one assignment of error and broadly argues the Board was clearly wrong because it failed to correctly apply the relevant statutory provisions; that it failed to accurately consider the entire record and relied upon its own interpretation of the evidence; that it was clearly wrong in view of the reliable, probative, and substantial evidence on the record; and that it was arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. We disagree. "In order for a claim to be held compensable under the Workmen's Compensation Act, three elements must coexist: (1) a personal injury (2) received in the course of employment [a]nd (3) resulting from that employment." Syl. Pt. 1, *Barnett v. State Workmen's Comp. Comm'r*, 153 W. Va. 796, 172 S.E.2d 698 (1970); *see also* W. Va. Code § 23-4-1(a) (2024).

In this case, the Board held that Ms. Scholl suffered a displaced unspecified condyle fracture of the lower end of the left femur and a displaced fracture of the medial plateau/condyle of the right tibia in the course of her employment because the weight of the evidence indicated that she is a remote worker who was returning to her home office after checking for a work-related delivery during normal working hours. The Board further found that this injury resulted from her employment because she was in the process of performing her regular work duties of checking for work-related packages and returning to her home office at the time she was injured. The Board based this finding on its determination that Ms. Scholl's testimony was credible.

On appeal, Medical License's arguments all relate to the Board's determination that Ms. Scholl was credible. Specifically, Medical License argues that Ms. Scholl provided conflicting stories regarding how she was injured. Medical License also notes that Ms.

Scholl was notified when UPS packages were delivered and was not required to check frequently, and that Ms. Scholl denied that she suffered prior leg injuries or impairments with her balance, walking, or dizziness despite medical evidence to the contrary. Lastly, Medical License contends that Ms. Scholl did not claim her injury was work related until after she was made aware that she was set to be terminated.[4]

This Court has consistently stated that it is not in a position to reweigh the evidence at the appellate stage. S*ee W. Va. Dep't of Health and Hum. Res. Off. of Health Facility Licensure and Certification v. Heart 2 Heart Volunteers, Inc. d/b/a Serenity Hills Life Ctr.*, 249 W. Va. 464, 470, 896 S.E.2d 102, 108 (Ct. App. 2023) (citing Syl. Pt. 3, *Frazier v. Ramadan*, 249 W. Va. 170, 895 S.E.2d 25 (2023)). While we might have decided this case differently, the Board explicitly found Ms. Scholl's deposition testimony to be credible. *See Martin v. Randolph Cnty. Bd. of Educ.*, 195 W. Va. 297, 306, 465 S.E.2d 399, 408 (1995) ("We cannot overlook the role that credibility places in factual determinations, a matter reserved exclusively for the trier of fact. We must defer to the ALJ's credibility determinations and inferences from the evidence . . . .").

Based on its review of the evidence, the Board held that Ms. Scholl met her burden of establishing that she sustained an injury in the course of and resulting from her employment. As the Supreme Court of Appeals of West Virginia has set forth, "[t]he 'clearly wrong' and the 'arbitrary and capricious' standards of review are deferential ones which presume an agency's actions are valid as long as the decision is supported by substantial evidence or by a rational basis." Syl. Pt. 3, *In re Queen*, 196 W. Va. 442, 473 S.E.2d 483 (1996). With this deferential standard of review in mind, we cannot conclude that the Board was clearly wrong in holding this claim compensable for a displaced unspecified condyle fracture of the lower end of the left femur-closed fracture and a displaced fracture of the medial plateau/condyle of the right tibia-closed fracture.[5]

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[4] While Medical License does discuss Ms. Scholl's impending layoff and the timing of her injury, it does not reference West Virginia Code § 23-4-1c(a)(2)(B) (2026) or challenge the Board's failure to consider these facts in weighing Ms. Scholl's credibility as is required by this statute. As a result, these arguments were not preserved on appeal.

[5] The Board's February 3, 2026, order also reversed the claim administrator's November 12, 2023, order and granted Ms. Scholl TTD benefits and affirmed the claim administrator's April 29, 2024, order which added valgus deformity of the right knee, osteoarthritis of the right knee aggravation/progression, and right artificial knee joint as secondary compensable conditions and denied the compensability of various other secondary compensable conditions. However, Medical License does not challenge these findings on appeal and its brief only challenges the Board's finding that Ms. Scholl established that she sustained a displaced unspecified condyle fracture of the lower end of the left femur-closed fracture and a displaced fracture of the medial plateau/condyle of the right tibia-closed fracture in the course of and as a result of her employment. Its brief does

Accordingly, we affirm the Board's February 3, 2026, order.

Affirmed.

ISSUED: November 10, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White

not discuss TTD benefits or the various secondary compensable conditions. As a result, this Court will only consider the Board's findings which Medical License explicitly challenges.