

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON

1 IN RE: SALLY D. SANGDER) DOCKET NO. 09 14185
2)
3 CLAIM NO. SC-54221) PROPOSED DECISION AND ORDER

4 INDUSTRIAL APPEALS JUDGE: Brian O. Watkins

5 APPEARANCES:

6 Claimant, Sally D. Sangder, by
7 Williams, Wyckoff & Ostrander, PLLC, per
8 Douglas P. Wyckoff

9 Self-Insured Employer, Providence Health & Services, by
10 Eims & Flynn, P.S., per
11 Kathryn I. Eims and Jonathan James

12 The claimant, Sally D. Sangder, filed an appeal with the Board of Industrial Insurance
13 Appeals on April 30, 2009, from an order of the Department of Labor and Industries dated April 21,
14 2009. In this order, the Department ended time-loss compensation as paid to February 4, 2009,
15 and closed the claim. The Department order is **REVERSED AND REMANDED**.

16 PROCEDURAL AND EVIDENTIARY MATTERS

17 On July 2, 2009, the parties agreed to include the Jurisdictional History in the Board's record.
18 That history establishes the Board's jurisdiction in this appeal.

19 This appeal was consolidated for hearing only with another appeal filed by Ms. Sangder
20 under Docket No. 09 14185.

21 The *Perpetuation Deposition Upon Oral Examination Of Dawn M. Ehde, Ph.D.*, taken on
22 October 21, 2009, was published in accordance with WAC 263-12-117(2). All objections are
23 overruled and all motions are denied except the objection at page 57 is sustained. Testimony at
24 page 57, lines 22-25, and page 58, lines 1-21 are stricken. Deposition Exhibit No. 1 is
25 renumbered Exhibit No. 4 and admitted.

26 The *Perpetuation Deposition Upon Oral Examination of Janna Friedly, M.D.*, taken on
27 November 4, 2009, was published in accordance with WAC 263-12-117(2). All objections are
28 overruled and all motions are denied.

29 The *Perpetuation Deposition Upon Oral Examination of Jennifer J. James, M.D.*, was taken
30 on November 9, 2009. Dr. James reserved signature at the conclusion of the deposition, and there
31 is no evidence in it that she subsequently signed the deposition. Neither party has filed a motion to
32 suppress the deposition, however. Therefore, in accordance with CR 32 (d)(4) and

1 WAC 263-12-117(2), the irregularity is waived and the deposition is hereby published despite the
2 irregularity. All objections are overruled and all motions are denied except the objection at page 39
3 is sustained, and the testimony at page 38, lines 17–25, is stricken.

4 The *Perpetuation Deposition Upon Oral Examination of Lewis B. Almaraz, M.D.*, taken on
5 November 12, 2009, was published in accordance with WAC 263-12-117(2). There were no
6 objections or motions to rule upon.

7 The *Perpetuation Deposition Upon Oral Examination of Russell Vandenberg, M.D.*, taken on
8 November 13, 2009, was published in accordance with WAC 263-12-117(2). All objections are
9 overruled and all motions are denied.

10 The *Perpetuation Deposition Upon Oral Examination of Vicki Newmaker, MS, CRC*, taken on
11 November 16, 2009, was published in accordance with WAC 263-12-117(2). All objections are
12 overruled and all motions are denied except the motion to strike at page 26 is granted. Testimony
13 at page 26, lines 6–11, is stricken. I note in passing that the objection lodged at page 13 is
14 overruled as the problem was cured by continuing the deposition to another date for complete
15 cross-examination. The **Continued** *Perpetuation Deposition Upon Oral Examination of*
16 *Vicki Newmaker, MS, CRC*, taken on December 2, 2009, was also published in accordance with
17 WAC 263-12-117(2). There were no objections or motions to rule upon.

18 ISSUES PRESENTED

- 19 1. Does the claimant have the condition described as bilateral carpal
20 tunnel syndrome and is that condition causally related to the April 8,
21 2008 industrial injury?
- 22 2. Does the claimant have a mental health condition causally related to the
23 April 8, 2008 industrial injury?
- 24 3. Is the claimant entitled to time-loss compensation for the period of
25 February 4, 2009, through April 21, 2009?
- 26 4. Is the claimant entitled to additional proper and necessary medical
27 treatment?

28 **Additional Note Regarding Issues:** I note that at the scheduling conference, the claimant
29 identified permanent partial disability benefits and, in the alternative, permanent total disability
30 benefits as additional relief sought. The claimant struck these issues at the October 22, 2009
31 hearing, and clarified that the above four issues, represent the sole relief sought in this appeal.

32 EVIDENCE PRESENTED

33 **SALLY D. SANGDER (THE CLAIMANT)** — Ms. Sangder is the claimant in this appeal. She is 61,
34 and born January 1, 1949. She is a high school graduate with two years of college, and is a
35 licensed practical nurse. In April 2008, she worked as a research coordinator at Providence

1 Western Washington Oncology. She injured her right ankle on January 1, 1996, resulting in a
2 March 31, 1999 amputation six to eight inches below her right knee. She eventually wore a right
3 prosthetic leg. On March 18, 2008, she fell in the shower and landed on her left leg, and hit her
4 right leg on the inner portion of the stump. After the shower fall, she could not wear her prosthetic
5 leg, and used a wheelchair for mobility while she waited for the swelling to subside and heal
6 enough to wear the prosthetic again. By early April 2008, she felt her recovery was going well.

7 Ms. Sangder testified that on April 8, 2008, she injured her right leg at work. She fell out of
8 her chair while at work, and landed hard on the outer portion of her residual limb. It was extremely
9 painful. A coworker assisted her with an ice pack. She sought treatment from her family practice
10 physician, Dr. Thomas Duncan. He ordered an x-ray, rest, elevation, ice, and pain medication.
11 She filed an industrial insurance claim. The self-insured employer paid for treatment and time-loss
12 compensation. Ms. Sangder described the shower fall as more of a slide than a fall, whereas the
13 fall at the office was an actual fall directly onto her residual limb with all her weight. She continued
14 to wear a prosthetic sock after the shower fall, but indicated the industrial injury swelling was
15 significant and testified she was not able to don a sock. The extreme pain lasted until January or
16 February 2009. She attempted to don a prosthetic in January 2009, but immediately developed a
17 large blister, which took three months to heal. She received physical therapy and massage, but her
18 leg began to swell more. She noticed it was shedding, there was hair loss, it became very cold to
19 touch, and became mottled in color. She thought she might be developing regional pain syndrome,
20 and saw Dr. Michael Brennan at Harborview. She had more physical therapy and pain medication.
21 In July 2008, she began treatment with Drs. Janna Friedly and Ehde at Harborview.

22 Ms. Sangder testified that she used a nine-year-old wheelchair after the shower fall. After
23 the industrial injury, she felt she needed a new one. Every one of her providers recommended a
24 new, lightweight chair that would be more comfortable, and provide the ability to maneuver with less
25 strain on her back, arms, and hands. She testified the old chair was a transport chair, not designed
26 to be sat in. The old chair weighed 37.3 pounds, and the lightweight chair weighed 30.2 pounds.
27 She purchased a new chair in December 2008 because the team she was working with felt she
28 could not progress unless she replaced it. A doctor recommended she not use crutches, and she
29 developed carpal tunnel syndrome because the old wheelchair was not set up ergonomically, and it
30 was difficult to propel forward. She had no wrist or hand symptoms before the April 8, 2008
31 industrial injury. At Providence, she used her hands and wrists on a frequent basis. Dr. Friedly
32

1 diagnosed moderate, bilateral carpal tunnel syndrome. The carpal tunnel syndrome condition has
2 not resolved. She had carpal tunnel syndrome release surgery scheduled for November 9, 2009.

3 Ms. Sangder testified about her emotional state. She has experienced some bouts of
4 depression. Working through the loss of a limb is difficult. She treated with a psychologist,
5 Dr. Reynolds, in Olympia. Prior to the injury, her mood was good. She enjoyed her work. She was
6 on a daily, low dose of cymbalta for situational depression before the industrial injury, including her
7 amputation and family issues.

8 Ms. Sangder testified she went to France with Richard Pierson in July 2008, and that
9 Dr. Smith had approved her to take the trip. She testified it is not true that she stood on her leg and
10 participated in race activities in France. She used a wheelchair for mobility, and did not take her
11 prosthesis. After Ms. Sangder returned from Europe, her depression issues worsened, and she
12 saw Dr. Ehde, a psychologist, for about 15 one-hour sessions. In July 2008, Ms. Sangder
13 increased her Cymbalta medication to 30 milligrams a day. She still sees Dr. Ehde. Sitting in the
14 wheelchair has caused Ms. Sangder's weight to rise 50 or 60 pounds.

15 Ms. Sangder began wearing her prosthesis again on Mothers' Day 2009, and was wearing it
16 full-time as of October 22, 2009. She still has pain in her leg and is taking Neurontin for nerve pain.
17 Ms. Sangder also testified that Providence terminated her employment by letter in August 2008.

18 Ms. Sangder testified that between February 3, 2009, and April 21, 2009, she was seen
19 20 times at Harborview. She testified that between February 3, 2009, and April 21, 2009, her
20 mental health was not good.

21 On cross-examination, Ms. Sangder testified she originally injured her leg back in 1996.
22 The injury stemmed from a defective staircase. She had to sue the staircase manufacturer, and the
23 trial was stressful. Ms. Sangder has had financial troubles and filed bankruptcy. Ms. Sangder saw
24 a mental health counselor named Mary Beth Slugg. She took Zoloff before the amputation, and
25 after the amputation for awhile. Ms. Sangder testified that she was diagnosed with Addison's
26 disease in 2003. Treatment involves taking cortisol, a cortisone replacement. Ms. Sangder
27 testified she was having difficulty at work in the wheelchair because there were boxes and freight in
28 the office. It is difficult to get around the office, and the examination rooms are difficult to get into
29 with the wheelchair, patients, and doctors. Ms. Sangder testified she has fallen a total of five times
30 since she's been an amputee, including a fall in September 2008, when she fell and landed on her
31 knee while trying to put a heavy wheelchair in the back of her car.

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1 Ms. Sangder testified she attended several independent medical examinations. At the
2 examination with Drs. Toomey and James, she was asked if she felt sharp, and she answered no.
3 She later realized that he was asking her if she felt sharp or dull. She did not understand the
4 question at the time. Ms. Sangder's break up with Mr. Pierson was surprising to her. She felt angry
5 and sad after the break up.

6 In 2004, Ms. Sangder earned a certificate in Microsoft computer skills in programs such as
7 Excel, Access, and Word. She used a computer as part of her work at the self-insured employer.
8 At the self-insured employer, she recruited patients for studies, and developed a tracking system for
9 tracking patients. She was responsible for managing data regarding clinical trials. At Evergreen
10 Clinical Research Associates, Ms. Sangder was responsible for payroll, budget management, grant
11 negotiations, recruiting people for clinical trials, and development of an employee handbook. At
12 Olympia Orthopedists Associates, she scheduled surgeries, and dealt with insurance. She has also
13 worked as a self-employed research nurse, assisting with clinical trials. She has experience
14 running her own business, a European style café.

15 **RICHARD C. PIERSON (CLAIMANT LAY WITNESS)** — Mr. Pierson has known Ms. Sangder for
16 approximately 20 years. He lived with Ms. Sangder from April 2006 through June 2009. He
17 testified Ms. Sangder is an amputee, and had a residual stump on her right leg. He testified he has
18 helped her shower from time to time. At the time, the shower had seats in it. She could swing
19 herself in, and use the seat. In March 2008, while he was in their home, he heard Ms. Sangder fall
20 in the shower, and she told him what happened. He observed that she hurt the right side of her
21 amputated leg, up the stump a couple of inches or so. He observed redness right away and
22 bruising set in thereafter. He and Ms. Sangder went to Dr. Duncan in Tumwater, Washington, and
23 she was x-rayed. Before the shower fall, she used a prosthetic leg daily. Mr. Pierson testified he
24 thought Ms. Sangder missed no work after the shower fall.

25 Mr. Pierson testified that before Ms. Sangder's industrial injury occurred, bruising from the
26 shower fall was gone, and she was at a point where she was actually wearing a sock on her leg
27 and was preparing to wear her prosthetic leg. After the industrial injury, even a towel brushing the
28 top of her leg would "send her into orbit." He testified the bruising after the industrial injury was on
29 the end of her leg, while the bruising after the shower fall was on the side of her leg. After the
30 industrial injury, Ms. Sangder became very irritable. After the industrial injury, Ms. Sangder was
31 uncomfortable in her wheelchair. Mr. Pierson described it as old, cumbersome, and very heavy.
32 She was not always able to drive herself to medical appointments. He testified she had difficulty

1 exiting their home, and hopped on one leg to get into her car seat. He testified that Ms. Sangder
2 was not doing better by June 2008. By February 2009, he observed that Ms. Sangder's function
3 was better, but her mood was the same or worse.

4 Mr. Pierson testified Ms. Sangder had difficulty using her hands and wrists during 2008 or
5 2009. He noticed she had weakness in her hands, could not handle heavy items, and rubbed her
6 hands a lot. He did not notice the hand weakness before the industrial injury. He testified
7 Ms. Sangder traveled to France with him in July 2008 for a car race. He testified Ms. Sangder did
8 not use a prosthetic leg on the trip and he did not see her stand during the trip. She used a
9 wheelchair to get around.

10 On cross-examination, Mr. Pierson testified that Ms. Sangder acquired her wheelchair about
11 two years before the March 2008 shower incident. He did not recall her using the chair before
12 March 2008 at that location (the home). He testified that before the shower event, Ms. Sangder's
13 stump was typically not red colored. He testified Ms. Sangder was uncomfortable in her wheelchair
14 because she is not used to sitting in a wheelchair 24 hours a day. After the industrial injury,
15 Ms. Sangder did not go out as much as before. Mr. Pierson also testified that during the trip to
16 France, Ms. Sangder played a role on his race team. She would meet and greet. They were in
17 France for three weeks. He testified that Ms. Sangder had two wheelchairs.

18 **DAWN M. EHDE, PH.D. (CLAIMANT PSYCHOLOGIST WITNESS)** — Dr. Ehde is a clinical
19 psychologist in the Department of Rehabilitation Medicine Division of Rehabilitation and Clinical
20 Neuropsychology at Harborview Medical Center. Dr. Ehde treats amputees for mental health
21 symptoms, distress related to the injury. She began treating Ms. Sangder on January 8, 2009, or
22 possibly in the fall of 2008. Ms. Sangder was referred to Dr. Ehde for pain control and adjustment
23 to the changes that had happened in her life. Dr. Ehde initially saw Ms. Sangder as someone who
24 had chronic pain with episodic depressive symptoms.

25 Based upon treating Ms. Sangder 15 times, Dr. Ehde would diagnose Ms. Sangder with
26 depressive disorder not otherwise specified. Ms. Sangder's symptoms would come and go
27 depending on her stressors. As Ms. Sangder's mobility improved, so did her mood. She noted
28 Ms. Sangder had a history of depressive symptoms in her past. Ms. Sangder reported having had
29 depression at times in the past, including at the time of her amputation. Dr. Ehde felt
30 Ms. Sangder's depression was caused, in part, by her April 2008 industrial injury. Ms. Sangder's
31 symptoms varied through Dr. Ehde's treatment of Ms. Sangder. Ms. Sangder has had stressors
32 other than the industrial injury and its aftermath, including personal issues. Dr. Ehde provided

1 treatment in the form of teaching her ways of coping with pain, losing weight, and managing the
2 emotional impact of her disability. Dr. Ehde testified Ms. Sangder took antidepressant medication
3 in the past. She was on Cymbalta as of May 5, 2008. Dr. Ehde testified that Ms. Sangder's
4 mental health condition alone would not have prohibited her from returning to work during the
5 period of February 4, 2009, through April 21, 2009. Dr. Ehde also testified, however, that if she
6 considered Ms. Sangder's physical conditions as well, she does not think Ms. Sangder could work.
7 Dr. Ehde thinks Ms. Sangder's mental health will improve with improvement to her physical
8 condition.

9 On cross-examination, Dr. Ehde testified she did not review evaluation reports by
10 Dr. Jennifer James, Eugene Toomey, Dr. Jones, Dr. Alvarez, or Dr. Duncan (Ms. Sangder's primary
11 care physician). She also testified that on January 8, 2009, she noted Ms. Sangder had new
12 stressors--a problem moving into a new condo where dogs had urinated on the carpet. Dr. Ehde
13 testified that she did not diagnose Ms. Sangder with depression at any point during treatment.
14 Dr. Ehde did not use that terminology. She did talk about depressive symptoms with Ms. Sangder.
15 Dr. Ehde also testified if Ms. Sangder's physical abilities were there, the doctor would have
16 released her to return to work regarding her mental health. Dr. Ehde also testified Ms. Sangder did
17 not report feeling depressed on a consistent basis. Dr. Ehde believes Ms. Sangder does not meet
18 the criteria for major depressive disorder.

19 **JANNA FRIEDLY, M.D.¹ (CLAIMANT MEDICAL WITNESS)** — Dr. Friedly is a medical doctor
20 specializing in physical medicine and rehabilitation. She works only with amputees. Dr. Friedly
21 testified that Dr. Smith, a surgeon, referred Ms. Sangder to Dr. Friedly, and she first saw
22 Ms. Sangder on August 12, 2008. Drs. Friedly and Smith work as a team with Ms. Sangder, who
23 has a below-the-knee right amputation. Her main complaint was pain in her residual limb.
24 Ms. Sangder reported two falls, one at home and one at work several weeks later. Ms. Sangder
25 displayed developed symptoms consistent with complex regional pain syndrome (CRPS).
26 Ms. Sangder had swelling in her residual limb, and was reddish and mottled. It was cooler to the
27 touch than the other side, showed excessive hair growth.

28 Dr. Friedly provided treatment to Ms. Sangder beginning in August 2008. Treatment
29 included transitioning Ms. Sangder from narcotic medication to gabapentin, to re-engage her in
30 activities, physical therapy to start desensitizing her to pain, and to address her psychological and
31 pain issues. She saw the claimant on a one-to-two-month basis. Ms. Sangder appeared

32 ¹ The cover page caption for the transcript of Dr. Friedly's deposition lists her as Janna Friedly, Ph.D. Her testimony, however, establishes she received a medical degree, and should actually be described as Janna Friedly, M.D.

1 depressed often and would talk about depression and anxiety type symptoms. Dr. Friedly cannot
2 diagnose Ms. Sangder with clinical depression, however. She was struggling with chronic pain.

3 Sometime around August 2008, Dr. Friedly recommended Ms. Sangder obtain an ultralight
4 wheelchair. She recommended the new chair because Dr. Friedly always recommends that all
5 amputees have a backup wheelchair for times when they cannot use their prosthetics. In
6 Ms. Sangder's case, the doctor thought it was important that she have an ultralight wheelchair
7 because she had difficulty with shoulder, wrist, and arm pain related to her carpal tunnel syndrome
8 and shoulder issues she was having related to propelling the heavier wheelchair. Dr. Friedly also
9 noted Ms. Sangder had to take her wheelchair in her car to medical appointments, and it was
10 difficult to get the heavier chair in and out of the car. She also noted Ms. Sangder had a couple of
11 falls related to maneuvering the heavier wheelchair in and out of the car. Dr. Friedly felt the lighter
12 wheelchair was medically necessary for Ms. Sangder after the fall.

13 Dr. Friedly feels Ms. Sangder's arm symptoms were due, in part, to the use of the manual
14 wheelchair. She also recommended Ms. Sangder equip her home with a ramp to help her get in.
15 As Ms. Sangder used her wheelchair less, her arm symptoms lessened, but did not go away. By
16 May 2009, Ms. Sangder's condition was improving.

17 Dr. Friedly does not believe that Ms. Sangder's condition had reached maximum medical
18 improvement as of September 9, 2008. Dr. Friedly would attribute Ms. Sangder's shoulder, wrist,
19 and hand symptoms, in part and indirectly, to the April 2008 fall. She would also attribute
20 intermittent back pain, left knee pain, left lower extremity pain, weight gain, and mental health
21 issues, in part and indirectly, to the April 2008 fall. She reached these conclusions because the fall
22 caused Ms. Sangder to use the manual wheelchair for a long period of time. As of April 21, 2009,
23 Ms. Sangder was still undergoing mental health treatment, physical therapy, and was still working
24 with a prosthetist to get her prosthesis adjusted.

25 Dr. Friedly testified Ms. Sangder was not able to work in her job of injury on a full-time basis
26 during the period of February 4, 2009, through April 21, 2009. Ms. Sangder was actively involved in
27 physical therapy and working with a prosthetist during that time, and she was still suffering from a
28 lot of issues related to her pain and her mental health issues. By May 2009,
29 Dr. Friedly feels Ms. Sangder's pain was much better, and the complex regional pain syndrome
30 (CRPS) had resolved, though she continued to have chronic pain with other issues.

31 Dr. Friedly examined job analyses for admissions clerk, medical receptionist, surgery
32 scheduler, patient care manager, and wellness nurse. She did not believe Ms. Sangder would have

1 been able to work at most of these positions on a full-time basis during the period of February 4,
2 2009, through April 21, 2009, but thought Ms. Sangder might have been able to work as a part-time
3 wellness nurse.

4 On cross-examination, Dr. Friedly testified she would defer to a psychologist regarding
5 whether Ms. Sangder has a diagnosable mental health condition. She testified Ms. Sangder is the
6 only amputee patient Dr. Friedly has seen with CRPS. Dr. Friedly testified that during the period of
7 February 4, 2009, through April 21, 2009, Ms. Sangder was limited to working from a wheelchair,
8 would be limited regarding repetitive activities or anything that would aggravate her hands and
9 shoulders. Regarding pain and mental health, Dr. Friedly would defer to a psychologist. The doctor
10 did not feel that if Ms. Sangder could drive she could work full time. Dr. Friedly noted that
11 Ms. Sangder had been taking Cymbalta for depression since 2006.

12 Dr. Friedly also testified that Ms. Sangder had Addison's disease, and was aware
13 Ms. Sangder had taken steroids for several years as treatment. Side effects of chronic steroids can
14 include osteoporosis, edema, fluid retention, mood swings, anxiety, depression, hypertension, and
15 weight gain. The doctor was aware that Ms. Sangder had asthma, obstructive sleep apnea,
16 osteoporosis, and panhypopituitarism, all pre-existing the April 2008 industrial injury.

17 **LISA HUMPHREY (EMPLOYER LAY WITNESS)** — Ms. Humphrey is a registered nurse employed
18 by Providence Western Washington Oncology. She worked very closely with Ms. Sangder.
19 Ms. Sangder told Ms. Humphrey about the fall in the shower, and that she landed on the end of her
20 amputated leg. Ms. Sangder's leg was swollen and red, and she said it was bothering her. She
21 saw Ms. Sangder use a wheelchair after the shower injury. Ms. Humphrey does not recall
22 Ms. Sangder complaining about her ability to work after the shower fall. Ms. Humphrey was
23 present and a few feet away when Ms. Sangder injured her leg at work. After she heard the
24 claimant fall, Ms. Humphrey turned around and saw her bent over, holding her leg. She was
25 hurting. Ms. Humphrey helped Ms. Sangder get back into her wheelchair.

26 On cross-examination, Ms. Humphrey testified that she saw Ms. Sangder's residual stump
27 after the shower fall, but could not recall what part of the residual stump had redness.

28 **JENNIFER J. JAMES, M.D. (EMPLOYER MEDICAL WITNESS)** — Dr. James is a medical doctor
29 specializing in physical medicine and rehabilitation. She and Dr. Toomey examined Ms. Sangder
30 once, at the request of the employer's representative, on January 2, 2009. Dr. James obtained a
31 history from Ms. Sangder and reviewed medical records. The doctor testified Ms. Sangder
32 described the March 2008 shower fall injury. Ms. Sangder complained of right leg pain, color and

1 temperature changes, sweating, hair loss, and swelling. Ms. Sangder told the doctor she was
2 completely numb from the right elbow distally, and completely numb from the left midforearm
3 distally. Dr. James thought this was not consistent with carpal tunnel syndrome because carpal
4 tunnel syndrome affects the distribution of the distal median nerve. She thought it is impossible for
5 a simple carpal tunnel injury to cause complete loss of sensation distal to the right elbow and left
6 forearm. There is no neurological explanation for that.

7 Ms. Sangder also complained of pain over the back of her neck, her entire back, her
8 buttocks, the entire right leg, the front of both shoulders, the front of her neck, her chest, lateral ribs,
9 and the side of her abdomen. The only pain-free areas left were the middle of her stomach, the top
10 of her head, the back and front of her left thigh, the middle of her left calf, her face, and the bottom
11 of her left foot.

12 Dr. James examined records from Dr. Snow. Dr. James noted Ms. Sangder has pitting
13 edema of both lower limbs, and testified that she always will because of her Addison's disease and
14 panhypopituitarism. Dr. James noted Dr. Snow found, in March 2008, that Ms. Sangder had some
15 swelling and bruising at the tip.

16 Drs. James and Toomey felt Ms. Sangder's left limb condition was incited by the shower fall.
17 Dr. James felt bruising would have shown up within two hours of the industrial injury, given
18 Ms. Sangder's panhypopituitarism medications. It would not have shown up within a minute.
19 Dr. James diagnosed increased swelling, a bruise, and further delay of her ability to fit into the
20 prosthesis as caused by the April 8, 2008 workplace fall. The doctor termed it an exacerbation of a
21 pre-existing condition. Dr. James believes the conditions caused by the April 8, 2008 industrial
22 injury were resolved by July 1, 2008.

23 Dr. James does not believe Ms. Sangder has complex regional pain syndrome (CRPS)
24 because she did not see any examination findings or clinical evidence to support that diagnosis.
25 There are 12 signs physicians look for to diagnose CRPS. She testified CRPS is a diagnosis of
26 exclusion. The doctor noted Ms. Sangder had edema symmetrically in all four limbs because of her
27 hormonal conditions, and using edema to rule out or rule in complex regional pain syndrome must
28 be measured in light of her Addison's disease and medications for that disease. Regarding other
29 signs of CRPS, Dr. James saw no skin discoloration on Ms. Sangder, no cool skin temperature, no
30 dry or overly moist skin, no soft tissue atrophy, no joint stiffness or decreased passive motion, and
31 no hair growth changes. The doctor noted nail changes could not be determined inasmuch as
32 Ms. Sangder has no nails on her lower left limb. She did note Ms. Sangder has non-elastic skin

1 texture, which is one of the CRPS criteria. The doctor also noted that radiographs are the
2 diagnostic criteria for CRPS, bone scans in particular. Dr. James testified that the bone scans of
3 Ms. Sangder did not show CRPS.

4 Dr. James tested Ms. Sangder's arms twice. She found Ms. Sangder to be diffusely numb
5 distal to the forearm bilaterally. Ms. Sangder had complete anesthesia to vibratory sensation.
6 Later Ms. Sangder put on her socks without looking, while talking with the doctor. Dr. James found
7 it neuroanatomically impossible to put her socks and shoes on if she had absolutely no sensation
8 distal to the forearms. Based on her review of electro diagnostic studies, Dr. James diagnosed
9 bilateral carpal tunnel syndrome, but she does not feel the carpal tunnel syndrome is related to
10 Ms. Sangder's wheelchair use. Dr. James testified that chronic edema or fluid retention and
11 panhypopituitarism can cause or contribute to the development of carpal tunnel syndrome.
12 Ms. Sangder has pre-existing panhypopituitarism. Dr. James offered the opinion that
13 Ms. Sangder's condition from July 1, 2008, through April 21, 2009, was not related in any way to
14 her industrial injury. The doctor felt Ms. Sangder needed no further treatment related to her
15 industrial injury as of July 1, 2008, and had no physical work restrictions related to the industrial
16 injury. Dr. James feels Ms. Sangder can return to work at her job of injury without restrictions from
17 a wheelchair. The doctor also reviewed the job analyses for medical receptionist, admissions clerk,
18 wellness nurse, surgery scheduler, and patient care manager, and thought Ms. Sangder could work
19 in those positions during the period of February 4, 2009, through April 21, 2009.

20 On cross-examination, Dr. James testified that both the shower fall and the work fall
21 contributed to Ms. Sangder's swelling and pain. Dr. James does not disagree that Ms. Sangder
22 had pain and limitations caused in part by the industrial injury. Dr. James feels that all of the
23 treatment Ms. Sangder has received since July 1, 2008, would have been received with or without
24 the April 2008 fall.

25 Dr. James testified that Ms. Sangder developed (started complaining about – James Dep. at
26 59) carpal tunnel syndrome in October 2008, but that condition is not related to the industrial fall.
27 She also testified that no one knows for sure the date of the carpal tunnel syndrome onset. The
28 doctor testified that records show Ms. Sangder complained for years and years of shoulder, arm,
29 and hand pain from using her crutches and bumping her body around at home because she did not
30 have a wheelchair. Dr. James testified that Ms. Sangder's use of a wheelchair had nothing to do
31 with the two falls in 2008. She testified that Ms. Sangder's continuous use of a wheelchair
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1 contributed less than five percent of the etiology of her carpal tunnel syndrome. She testified there
2 were a number of carpal tunnel syndrome contributing causes.

3 **LEWIS B. ALMARAZ, M.D. (EMPLOYER MEDICAL WITNESS)** — Dr. Almaraz is a neurologist. He
4 examined Ms. Sangder once at the self-insured employer's request on September 9, 2008, along
5 with Dr. Casey Jones, an orthopedic surgeon. Dr. Almaraz obtained a history from Ms. Sangder
6 and reviewed medical records. Ms. Sangder complained of total body pain sparing the dorsum of
7 the left arm and hand, the dorsum of the right forearm and hand, the left hamstrings and calf area,
8 the left thigh, and anterior left leg. Ms. Sangder reported that she had panhypopituitarism and
9 Addison's disease, asthma, sleep apnea, colitis, and osteoporosis.

10 Dr. Almaraz offered the opinion that Ms. Sangder sustained a contusion of the right leg on
11 April 8, 2008, and that the residuals of that industrial injury had resolved by September 9, 2008. He
12 reached this conclusion because his understanding was that this was a relatively mild contusion,
13 and the expected healing time would be four to six weeks or so. Based on his examination,
14 Dr. Almaraz was of the opinion that Ms. Sangder did not have complex regional pain syndrome
15 (CRPS). He did not believe Ms. Sangder met the criteria for CRPS diagnosis set forth by the
16 *AMA Guidelines, Fifth edition*. He testified CRPS is an uncommon condition that is probably
17 overdiagnosed. He also had no basis from a neurological or orthopedic standpoint that would
18 account for Ms. Sangder's chronic body pain, though some of her symptoms can be explained by
19 the fact that she has an amputation. Dr. Almaraz did not examine Ms. Sangder's upper extremities,
20 but he has since reviewed records addressing whether Ms. Sangder has carpal tunnel syndrome.
21 Based on his review of those records, including an electrodiagnostic study, Dr. Almaraz felt it is
22 possible Ms. Sangder has carpal tunnel syndrome. He testified that he agrees with the EMG study
23 performed on October 17, 2008 by Dr. Robinson, M.D. Dr. Almaraz does not believe
24 Ms. Sangder's carpal tunnel syndrome was caused by the industrial injury. He testified that the
25 wheelchair use may possibly have been a cause of her carpal tunnel syndrome. He testified that
26 women, overweight people, and people with edema or fluid retention are at a higher risk for carpal
27 tunnel syndrome. He felt Ms. Sangder's Addison's disease and panhypopituitary could be a
28 contributing factor.

29 Dr. Almaraz testified that Ms. Sangder would have needed a lighter wheelchair even if she
30 had not suffered the industrial injury. He thought Ms. Sangder's industrial injury wouldn't be a major
31 contributing factor to require a lighter wheelchair. If she wanted one, it would be between her and
32

1 her treating physician. He thought the need for the lighter wheelchair was not related to the
2 industrial injury.

3 Dr. Almaraz testified Ms. Sangder did not need any further treatment for the residuals of her
4 industrial injury as of September 9, 2008. He also testified that Ms. Sangder could work full time as
5 a study coordinator II in her wheelchair. He felt the wheelchair was not related to the industrial
6 injury. Dr. Almaraz also reviewed job analyses for the positions of medical receptionist, admissions
7 clerk, wellness nurse, surgery scheduler, and patient care manager, and testified that Ms. Sangder
8 could physically perform these positions during the period of February 4, 2009, through
9 April 21, 2009. He felt she could return to her job of injury without restrictions from February 4,
10 2009, through April 21, 2009.

11 On cross-examination, Dr. Almaraz testified that he did not perform a full neurological
12 examination on Ms. Sangder. His examination was limited to the affected extremity. He does not
13 know how long Ms. Sangder has had hand symptoms or what activities created more of a problem
14 for her. He clarified that his opinion is that the April 2008 fall did not cause her carpal tunnel
15 syndrome. He testified that Ms. Sangder was in a wheelchair because she was not able to wear
16 her prosthesis. He testified that the continuation of Ms. Sangder's symptoms after June or
17 July 2008 would fall in the medically unexplained category. He testified that someone with carpal
18 tunnel syndrome can work in a job requiring continuous handling and grasping with the upper
19 extremities. Regarding Ms. Sangder's upper extremities, Dr. Almaraz would defer to physicians
20 who examined and tested her upper extremities.

21 **RUSSELL VANDENBELT, M.D. (EMPLOYER MEDICAL WITNESS)** — Dr. Vandenberg is a psychiatrist.
22 He examined Ms. Sangder once, at the request of the self-insured employer's attorney, on
23 September 8, 2009. The purpose of the examination was to assess the presence of any psychiatric
24 condition that was either related to an occupational injury or that had been affected by the
25 occupational injury she experienced. Dr. Vandenberg interviewed Ms. Sangder and also reviewed
26 available medical records. Ms. Sangder described both the shower fall and the work fall to
27 Dr. Vandenberg. She reported that she had broken up with Mr. Pierson, and the increased financial
28 burden caused by the breakup. Ms. Sangder reported difficulty adjusting to being alone at night.
29 The breakup blindsided her. She told Dr. Vandenberg that she was relegated to a wheelchair after
30 the injury. She described decreased energy since the industrial injury, and indicated that before the
31 industrial injury she was able to work a ten-hour shift, cook dinner at home, and socialized because
32 she had a ton of energy. He contrasted that with reports Ms. Sangder made to Dr. Duncan on

1 April 9, 2008, that before the industrial injury Ms. Sangder was having a very, very hard time doing
2 her job at work because she was in a lot of pain and had to take Vicodin to quell it. Ms. Sangder
3 told Dr. Vandebelt she took cymbalta 30 mg twice daily. Dr. Vandebelt thought that dosage level
4 probably was not doing much for her.

5 Dr. Vandebelt testified that he conducted a mental status examination of Ms. Sangder.
6 Based on his examination of her, her history, and review of records, Dr. Vandebelt diagnosed a
7 depressive disorder not otherwise specified. He also felt the depression pre-existed the April 8,
8 2008 industrial injury. He based this opinion on the information in her records and from
9 Ms. Sangder herself, that she had prior problems with depression over time. The doctor pointed to
10 the number of ongoing situational stressors in her life and noted Ms. Sangder pointed to the
11 enormous adjustments in her life that she needed to make regarding life after the amputation, her
12 physical disabilities, what she was able to do, her body image, and the loss of her relationship with
13 Mr. Pierson coupled with her age and her likely perception of her ability to find someone else at this
14 point in her life with her age and disabilities. He felt the April 8, 2008 industrial injury was a
15 contributing factor to her overall picture, but it was a time-limited effect that probably lasted a few
16 months when considering the magnitude of the injury compared to the amputation she had. He felt
17 that Dr. Ehde's treatment of Ms. Sangder was unrelated to the industrial injury. He noted that
18 Dr. Ehde's record reveal that Ms. Sangder did not report any consistently depressed or anxious
19 mood, although Dr. Ehde documented a discussion about the relationship breakup in July 2009. In
20 his report, Dr. Vandebelt indicated his belief that Ms. Sangder's depression stemmed from her
21 relationship breakup, her ongoing physical limitations because of the amputation, her lack of
22 employment, and her financial and occupational uncertainty. The doctor felt the April 8, 2008
23 industrial injury was a contributing factor to Ms. Sangder's psychiatric clinical picture for one to two
24 months following the contusion injury she sustained.

25 Dr. Vandebelt felt Ms. Sangder would benefit from further treatment for depression because
26 she is at significant risk for experiencing recurrent problems with depression and she's going to be
27 better off continuing treatment, including medication. The doctor did not feel Ms. Sangder would
28 have any work restrictions based on her psychiatric conditions. He offered the opinion that
29 Ms. Sangder was able to carry out gainful employment, and specifically could have worked during
30 the period of February 4, 2009, through April 21, 2009. He thought she would be better off if she
31 went to work from a psychiatric standpoint.

32

1 On cross-examination, Dr. Vandenberg testified that Ms. Sangder's depression started well
2 before the industrial injury, but contributed to her depression for the one to two month period
3 following April 8, 2008. He based his conclusion on this time limitation on his review of the records
4 of Drs. Jones and Almaraz, and the type of injury she sustained, and his own conclusion about how
5 long the injury would have given her trouble. Dr. Vandenberg thought pain from the April 8, 2008
6 industrial injury would have subsided within one to two months. Dr. Vandenberg noted Ms. Sangder
7 complained of pain, swelling, and loss of sensation at different points in time more than two months
8 after the April 8, 2008 industrial injury. Dr. Vandenberg does not believe Ms. Sangder missed any
9 work before the industrial injury.

10 **VICKI NEWMAKER, MS, CRC (EMPLOYER VOCATIONAL WITNESS)** — Ms. Newmaker is a
11 vocational rehabilitation consultant. She reviewed records regarding Ms. Sangder's vocational and
12 medical history, including the history of her industrial insurance claim. Ms. Newmaker found that
13 Ms. Sangder has 26 years experience as a licensed practical nurse with a strong background in
14 multispecialty settings, 15 of those 26 years as a clinical research coordinator, and one of those
15 26 years as a surgery scheduler. Ms. Sangder is also proficient in medical terminology and
16 Microsoft applications.

17 Based on the records reviewed, and assuming that Drs. James, Almaraz, and Vandenberg all
18 testified that Ms. Sangder was able to work during the period of February 4, 2009, through April 21,
19 2009, and a transferable skills analysis she performed, Ms. Newmaker was of the opinion that
20 Ms. Sangder is able to return to her job of injury and several other occupations based on her
21 transferable skills. Ms. Newmaker was aware that Ms. Sangder was terminated from her position at
22 the self-insured employer in October 2008.

23 Ms. Newmaker's intern conducted a labor market surveys in the Olympia-Tacoma area by
24 contacting employers regarding Ms. Sangder's job of injury, Study Coordinator II. Ms. Newmaker's
25 intern contacted three employers, and found the Study Coordinator II job is sedentary and could be
26 accomplished from a wheelchair. Keyboarding is intermittent with other activities throughout the
27 day. One employer had an opening, one employer had hired in July 2008, and one had not hired
28 for five years. Between the three employers they had a total of 31 positions. Qualification for the
29 positions were an LPN license, certification to give medication and injections, two years prior
30 clinical research experience, effective written, verbal, and interpersonal communication,
31 demonstrated familiarity with records management, MS Office computer skills, a valid Washington
32 driver's license, and reliable transportation. Ms. Newmaker concluded there is a positive labor

1 market for Ms. Newmaker's qualifications and experience for the Study Coordinator II job, but
2 marginal on current hiring.

3 Ms. Newmaker prepared a job analysis for the medical receptionist, admissions clerk, and
4 surgery scheduler positions. Based on the opinions of Drs. James, Almaraz, and Vandenberg, and
5 the records she reviewed, Ms. Newmaker offered the opinion that Ms. Sangder was capable of
6 performing and obtaining work in these three positions. Ms. Newmaker undertook labor market
7 surveys for these positions and found Ms. Sangder would meet the physical, experience, and
8 education qualifications to obtain work as a medical receptionist, admissions clerk, or surgery
9 scheduler. All five medical receptionist employers had a total of ten open positions. Of the four
10 employers who employed admissions clerks, Ms. Newmaker found there were five current job
11 openings, and the employers had 43 full-time positions and 88 part-time positions. Of the three
12 employers of surgery schedulers contacted, they had four to five current openings; and employed
13 23 total full-time surgery schedulers.

14 On cross-examination, Ms. Newmaker testified she was retained to gather this information
15 on September 16, 2009. She has never met Ms. Sangder, and she has never interviewed her. She
16 considered Ms. Sangder's below-the-knee amputation and her wheelchair. She also understood
17 that Ms. Sangder had some issues with carpal tunnel syndrome, and "tried to consider what
18 wouldn't be constant typing or very repetitive that way." Newmaker Dep. at 24. Ms. Newmaker
19 was unaware of any restrictions posed by the carpal tunnel syndrome. She was aware the carpal
20 tunnel syndrome was bilateral. Ms. Newmaker has no idea what Ms. Sangder's attending
21 physicians would say about the various jobs Ms. Newmaker suggested. Ms. Newmaker testified
22 that she assumed Ms. Sangder had fully recovered from the industrial injury. Ms. Newmaker was
23 unaware of the medications Ms. Sangder was taking. She considered no pre-existing mental
24 limitations. She does not know whether the self-insured employer would rehire her. Ms. Newmaker
25 did not contact the self-insured employer, although she normally would contact the employer at the
26 job of injury in performing a vocational assessment. She testified that a medical receptionist would
27 frequently use a keyboard, meaning it could be up to 66 percent of a workday intermittently.
28 Ms. Newmaker was unaware that Ms. Sangder was scheduled for hand surgery in November 2009.
29 Ms. Newmaker testified that if Ms. Sangder's mental health condition and carpal tunnel syndrome
30 were found to be related to her industrial injury, Ms. Newmaker would then have to consider it in
31 determining her employability, something she did not do.

32

1 Ms. Newmaker testified that the surgery scheduler job requires keyboarding up to 33 percent
2 of the work day. Ms. Newmaker disregarded the patient care manager and wellness nurse jobs for
3 Ms. Sangder because an RN license is required for those jobs. Ms. Newmaker testified that the
4 admissions clerk job requires keyboarding up to 66 percent of the workday.

5 On December 2, 2009, Ms. Newmaker offered more testimony. She testified further that her
6 intern, Carol DeLapp Johnson, conducted and prepared the above-referenced labor market
7 surveys. She testified that in each of the labor market surveys the question about the hiring outlook
8 (good, fair, or poor) was left blank. Ms. Newmaker did not know how many total job openings
9 existed in the research coordinator job within Ms. Sangder's labor market during the period of
10 February 4, 2009, through April 21, 2009, but she felt there was definitely ongoing hiring in the
11 other occupations. She testified there were most likely open surgery scheduler positions during the
12 period of February 4, 2009, through April 21, 2009. She conceded that she does not specifically
13 know about the availability of jobs during the period of February 4, 2009, through April 21, 2009,
14 because of the date the labor market survey was conducted. However, on re-direct she testified
15 that these positions would have had openings during the period of February 4, 2009, through
16 April 21, 2009.

17 DISCUSSION

18 **Burden of Proof**

19 As the appellant in this matter, Ms. Sangder has the burden of proving her entitlement to the
20 relief sought by the preponderance of the evidence. RCW 51.52.050. Here the relief sought consists
21 of a determination that she suffers from a mental health condition proximately caused by the industrial
22 injury, a determination that she suffers from carpal tunnel syndrome proximately caused by the
23 industrial injury, temporary total disability benefits (time-loss compensation) for the period of
24 February 4, 2009, through April 21, 2009, and further proper and necessary medical treatment.
25 Although the industrial insurance laws are remedial in nature and must be liberally construed, the
26 claimant must satisfy the strict and unyielding burden of proof requirement. *Olympia Brewing Co. v.*
27 *Department of Labor and Indus.,* 34 Wn. 2d 498 (1949).

28 **Mental Health Condition**

29 The evidence shows Ms. Sangder was occasionally depressed and took a very low dosage of
30 Cymbalta, an anti-depressant, well before the April 8, 2008 industrial injury. However, her treating
31 psychologist felt the April 8, 2008 industrial injury was a cause of the worsening of her depressed
32 condition, and the psychiatrist called by Providence Health agreed to an extent, testifying that the
April 8, 2008 industrial injury contributed to her depression. Having carefully considered the evidence

1 presented, I conclude that the April 8, 2008 industrial injury was a proximate cause of the aggravation
2 or worsening of Ms. Sangder depression.

3 **Carpal Tunnel Syndrome**

4 The evidence establishes Ms. Sangder developed carpal tunnel syndrome symptoms some
5 months after the April 8, 2008 industrial injury, and some months after using her wheelchair for
6 transportation. The preponderance of the evidence shows the April 8, 2008 industrial injury caused
7 Ms. Sangder to use her wheelchair for an extended period of time. Her treating physician, Dr. Friedly,
8 diagnosed the condition as moderate bilateral carpal tunnel syndrome. Dr. Friedly felt
9 Ms. Sangder's carpal tunnel syndrome was due, in part, to the use of the manual wheelchair. She
10 also recommended that Ms. Sangder equip her home with a ramp to help her get in. As
11 Ms. Sangder used her wheelchair less, her arm symptoms lessened, but did not go away. By
12 May 2009, Ms. Sangder's condition was improving.

13 Dr. James agreed with the bilateral carpal tunnel syndrome diagnosis, but did not feel the
14 carpal tunnel syndrome is related to Ms. Sangder's wheelchair use. Dr. James noted that chronic
15 edema or fluid retention and panhypopituitarism can cause or contribute to the development of
16 carpal tunnel syndrome. Dr. Almaraz felt it is possible Ms. Sangder has carpal tunnel syndrome.
17 He testified that he agrees with the EMG study performed on October 17, 2008 by Dr. Robinson.
18 He testified that the wheelchair use may possibly have been a cause of her carpal tunnel
19 syndrome.

20 Having carefully considered the evidence presented, I credit Dr. Friedly's belief that
21 Ms. Sangder's wheelchair use caused carpal tunnel syndrome as persuasive. Under Washington
22 law, the claimant need only prove that the industrial injury was a cause of the condition, and
23 Drs. Almaraz and James conceded as much. The claimant showed through Dr. Friedly's testimony
24 that the wheelchair use (which use was substantially prolonged by the April 8, 2008 industrial injury)
25 was a proximate cause of the bilateral carpal tunnel syndrome. Dr. James testified that
26 Ms. Sangder's continuous use of a wheelchair contributed less than 5 percent of the etiology of her
27 carpal tunnel syndrome, and that there were a number of carpal tunnel syndrome contributing
28 causes. Dr. James's opinion that there may have been other causes in addition to the prolonged
29 wheelchair use is insufficient to override Dr. Friedly's opinion on causation.

30 Having carefully considered the evidence presented, I conclude that the April 8, 2008 industrial
31 proximately caused Ms. Sangder's bilateral carpal tunnel syndrome condition.

32

1 **Treatment**

2 Upon the occurrence of an industrial injury or occupational disease, a worker covered by
3 industrial insurance in the state of Washington is entitled to receive proper and necessary medical
4 services during the period of disability from the injury or disease. RCW 51.36.010. Under
5 WAC 296-20-01002, health services are permitted which are proper and necessary for diagnosis,
6 curative, or rehabilitative treatment of an accepted condition. Under the Industrial Insurance Act,
7 "proper and necessary" refers to those health care services which are: Reflective of accepted
8 standards of good practice, within the scope of practice of the provider's license or certification.

9 Before a claim can be closed the medical condition must be "fixed." The term "fixed" does not
10 necessarily imply static:

11 [W]here a claimant's condition is deteriorating or further medical treatment
12 is contemplated, the condition is not "fixed" and the claim remains open so
13 that treatment can be provided. However, if a claimant's condition has
14 stabilized to the point where no further medical treatment is required, the
condition is "fixed" for purposes of closing the claim and determining the
disability award.

15 *Pybus Steel v. Department of Labor & Indus.*, 12 Wn. App. 436, 439, 530 P.2nd 350
16 (1975).

17 Dr. Friedly testified Ms. Sangder's condition had not reached maximum medical
18 improvement as of September 9, 2008. She noted that as of April 21, 2009, Ms. Sangder was still
19 undergoing mental health treatment and physical therapy, and was still working with a prosthetist to
20 get her prosthesis adjusted. The testimony of Drs. Almaraz and James that Ms. Sangder was not in
21 need of further treatment is discounted by the fact that they did not consider her bilateral carpal
22 tunnel syndrome to be related to the April 8, 2008 industrial injury. I credit the testimony of
23 Dr. Friedly in this regard, and conclude the claimant's industrially related conditions had not
24 reached maximum medical improvement as of April 21, 2009. The Department should have left the
25 claim open for further treatment.

26 **Temporary Total Disability (Time-Loss Compensation)**

27 Lastly, I address whether Ms. Sangder was temporarily totally disabled and entitled to
28 time-loss-compensation benefits for the period of February 4, 2009, through April 21, 2009. The
29 test for total disability is the same whether it is temporary or permanent in nature. *Bonko v.*
30 *Department of Labor & Indus.*, 2 Wn. App. 22 (1970). Total disability is an impairment of mind or body
31 which renders a worker unable to perform or obtain reasonably continuous gainful employment. A
32 worker is not totally disabled solely because of inability to return to his or her former occupation.

1 However, total disability does not mean that the worker must have become physically or mentally
2 helpless. WPI 155.07 (3d ed. 1989). See also *Kuhnle v. Department of Labor & Indus.*, 12 Wn.2d 191
3 (1942); *Fochtman v. Department of Labor & Indus.*, 7 Wn. App. 286 (1972); *Spring v. Department of*
4 *Labor & Indus.*, 96 Wn.2d 914 (1982); *Leeper v. Department of Labor & Indus.*, 123 Wn.2d 803
5 (1994). In determining whether a worker is permanently and totally disabled it is appropriate to
6 study the whole person - weaknesses, strengths, age, education, training, experience, and any
7 other relevant factors which contribute to the ultimate conclusion as to whether the person is
8 disqualified from substantial gainful employment generally available in the labor market. *Fochtman*
9 *v. Department of Labor & Indus.*, 7 Wn. App. 286, 292, 499 P.2d 255 (1972).

10 The evidence on this issue requires careful consideration. Before the April 8, 2008 industrial
11 injury, Ms. Sangder had a below-the-knee amputation and had to wear a prosthetic device to walk.
12 The evidence shows she fell onto a hard, carpeted floor at Providence within a month or so of falling in
13 a shower at home. The industrial injury caused a contusion and swelling in her residual lower limb.
14 She could not don her prosthetic device, she experienced pain, and was mostly limited to wheelchair
15 ambulation during the period at issue, but had begun to transition back to a prosthetic device. The
16 record shows she is a heavy woman, born in 1949, and crutches were not a realistic option. She
17 obviously could not work from a standing position and was obviously limited to sedentary level work
18 during the period of February 4, 2009, through April 21, 2009. This sedentary work limitation was
19 assumed by Ms. Newmaker, the vocational expert called by the self-insured employer. As indicated
20 above, the industrial injury was also a proximate cause of the worsening of Ms. Sangder's depression,
21 and caused bilateral carpal tunnel syndrome. The preponderance of the evidence establishes that
22 Ms. Sangder does suffer from complex regional pain syndrome (CRPS). Although Dr. Friedly
23 diagnosed this condition, testimony from Dr. James, who has far greater experience with CRPS,
24 shows that Ms. Sangder's symptoms do not meet the criteria for this condition. In addition to the
25 industrially related conditions, Ms. Sangder has Addison's disease, asthma, obstructive sleep apnea,
26 osteoporosis, and panhypopituitarism, which all preexisted the April 2008 industrial injury.

27 Ms. Sangder is a high school graduate with two years of college, and is a licensed practical
28 nurse. She is 61, born January 1, 1949. She has 26 years experience as a licensed practical
29 nurse with a strong background in multispecialty settings, including 15 years as a clinical research
30 coordinator, and one year as a surgery scheduler. Ms. Sangder is also proficient in medical
31 terminology and Microsoft applications. The evidence shows Ms. Sangder has transferable skills
32 and is qualified to work as a study coordinator II (which was her job injury), medical receptionist,

1 admissions clerk, and surgery scheduler. All of these jobs are sedentary, but the medical
2 receptionist and admissions clerk jobs require intermittent keyboarding up to 66 percent of the
3 workday, and the surgery scheduler position requires intermittent keyboarding up to 33 percent of
4 the workday. The vocational evidence establishes it is more likely than not that Ms. Sangder could
5 obtain work for which she is qualified provided she is able to work.

6 Ms. Sangder's treating psychologist, Dr. Ehde, thought Ms. Sangder's depression would not
7 have prohibited her working during February 4, 2009, through April 21, 2009, but thought her
8 physical conditions coupled with her depression would prohibit her from working. Dr. Ehde is not a
9 physician, however. Significant is that she did not review evaluation reports by Jennifer James,
10 Eugene Toomey, Dr. Jones, Dr. Alvarez, or Dr. Duncan (Ms. Sangder's primary care physician)
11 before offering her opinions about Ms. Sangder's physical condition's impact on her ability to work.
12 Dr. Ehde's testimony is weak regarding Ms. Sangder's ability to work.

13 Ms. Sangder's treating physician at Harborview, Dr. Friedly, thought Ms. Sangder was not
14 able to work in her job of injury on a full-time basis during the period at issue. The doctor noted the
15 claimant was involved in physical therapy and working with a prosthetist during that time, and she
16 was still suffering from a lot of issues related to her pain and her mental health issues. Dr. Friedly
17 testified Ms. Sangder's pain was much better by May 2009. Dr. Friedly did not believe Ms. Sangder
18 would have been able to work in "most" of the following positions during the period of February 4,
19 2009, through April 21, 2009: admissions clerk, medical receptionist, surgery scheduler, patient
20 care manager, or wellness nurse. She did think Ms. Sangder might have been able to work as a
21 part-time wellness nurse. I note here, however, that Ms. Newmaker made it clear that Ms. Sangder
22 is not qualified to work as a wellness nurse due to the lack of an RN credential. Dr. Friedly would
23 defer to a psychologist regarding whether Ms. Sangder has a mental health diagnosis.

24 Drs. Almaraz and James both testified that Ms. Sangder could physically work full time as a
25 study coordinator II, medical receptionist, admissions clerk, wellness nurse, surgery scheduler, and
26 patient care manager in her wheelchair during the period of February 4, 2009, through April 21,
27 2009. Dr. James felt Ms. Sangder had no physical work restrictions related to the industrial injury
28 during the period at issue.

29 Having carefully considered the evidence presented, I find by the preponderance of the
30 evidence that Ms. Sangder was able to perform and obtain work using her transferable skills during
31 the period of February 4, 2009, through April 21, 2009. The vocational testimony show
32 Ms. Sangder's ability to obtain work, and there is no reasoning offered as to why Ms. Sangder could

1 not perform the sedentary duties of a study coordinator II, medical receptionist, admissions clerk, or
2 surgery scheduler from her wheelchair. Indeed she performed the research study coordinator job
3 at Providence from a wheelchair for nearly a month before the industrial injury without missing
4 work. The evidence does not show her depression prevented her from working. The evidence
5 does not show her bilateral carpal tunnel syndrome prevented her from keyboarding or working.
6 Dr. Friedly feels Ms. Sangder could not work because she was still undergoing physical therapy,
7 seeing a prosthetist and experiencing pain. I am not persuaded by this reasoning and credit
8 Dr. James's assessment that Ms. Sangder had no physical restrictions that would prevent her from
9 working in these sedentary jobs. Time-loss compensation benefits should be denied for the period
10 of February 4, 2009, through April 21, 2009.

11 FINDINGS OF FACT

- 12 1. Sally D. Sangder, the claimant, filed an Application for Benefits with the
13 Department of Labor and Industries on May 7, 2008, alleging she
14 sustained an industrial injury on April 8, 2008, during the course of her
15 employment with Providence Health & Services. The Department
16 allowed the claim and paid benefits.

17 The Department issued an order on April 21, 2009, closing the claim
18 with time-loss compensation ended as paid to February 4, 2009. The
19 claimant filed a Notice of Appeal from this order on April 30, 2009, with
20 the Board of Industrial Insurance Appeals. The Board issued an order
21 on May 18, 2009, granting the appeal under Docket No. 09 14185.

- 22 2. On April 8, 2008, while in the course of her employment with Providence
23 Health and Services, Ms. Sangder injured the residual stump of her right
24 leg. She fell out of her chair while at work, and landed hard on the outer
25 portion of her right residual lower limb. As a result of this traumatic
26 event, Ms. Sangder sustained a right leg contusion.
- 27 3. The April 8, 2008 industrial injury also proximately caused
28 Ms. Sangder's to develop the condition diagnosed as bilateral carpal
29 tunnel syndrome.
- 30 4. The April 8, 2008 industrial injury also was a proximate cause of the
31 aggravation of Ms. Sangder's mental health condition diagnosed as
32 depression disorder not otherwise specified.
- 33 5. As of April 21, 2009, Ms. Sangder's industrially related conditions had
34 not reached maximum medical improvement and were in need of further
35 proper and necessary medical treatment.
- 36 6. Ms. Sangder is a high school graduate with two years of college, and is
37 a licensed practical nurse. She was born January 1, 1949. She has
38 26 years experience as a licensed practical nurse including 15 years
39 experience as a clinical research coordinator, and one year experience
40 as a surgery scheduler. Ms. Sangder has transferable skills and is

1 qualified to work as a study coordinator II (her job of injury), medical
2 receptionist, admissions clerk, and surgery scheduler.

3 7. Ms. Sangder also suffers from Addison's disease, asthma, obstructive
4 sleep apnea, osteoporosis, and panhypopituitarism, which all
pre-existed the April 2008 industrial injury.

5 8. During the period from February 4, 2009, through April 21, 2009, the
6 residual effects of the April 8, 2008 industrial injury did not preclude
7 Ms. Sangder from obtaining or performing reasonably continuous,
8 gainful employment in the competitive labor market, when considered in
conjunction with her age, education, work history, and pre-existing
9 disabilities.

10 CONCLUSIONS OF LAW

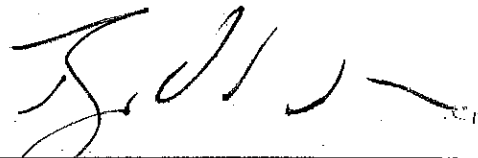
11 1. The Board of Industrial Insurance Appeals has jurisdiction over the
parties to and the subject matter of these appeals.

12 2. Pursuant to RCW 51.36.010, Ms. Sangder's bilateral carpal tunnel
13 syndrome, which was proximately caused by the April 8, 2008 industrial
14 injury, had not reached maximum medical improvement as of April 21,
2009, and she is entitled to further proper and necessary medical
15 treatment.

16 3. During the period from February 4, 2009, through April 21, 2009,
17 Ms. Sangder was not a temporarily, totally disabled worker within the
18 meaning of RCW 51.32.090, and, therefore, is not entitled to time-loss
19 compensation for this period.

20 4. The Department order dated April 21, 2009, is incorrect and is reversed.
21 The claim is remanded to the Department with instructions to issue an
22 order that directs the self-insured employer to accept the condition of
depressive disorder not otherwise specified, to accept the condition of
23 bilateral carpal tunnel syndrome, and to provide further treatment for
24 Ms. Sangder's industrially related conditions.

25 DATED: FEB 12 2010



26 **BRIAN O. WATKINS**
27 Industrial Appeals Judge
28 Board of Industrial Insurance Appeals
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