

SENATE FILE NO. SF0018

Mental injury-workers' compensation.

Sponsored by: Select Committee on Mental Health and
Substance Abuse Services

A BILL

for

1 AN ACT relating to workers' compensation; amending the
2 definition of injury to authorize coverage of a mental
3 injury as specified; requiring reports; and providing for
4 an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 27-14-409 is created to read:

9

10 **27-14-409. Mental injury coverage.**

11

12 (a) Coverage for mental injuries shall be provided
13 under this act as provided in this section.

14

15 (b) For purposes of this section, a mental injury is
16 an injury as defined in W.S. 27-14-102(a)(xi) which:

1

2 (i) Is caused by a compensable physical injury
3 and which:

4

5 (A) Occurs subsequent to or simultaneously
6 with the physical injury;

7

8 (B) Is established by clear and convincing
9 evidence;

10

11 (C) Is diagnosed by a licensed psychiatrist
12 or licensed clinical psychologist using criteria
13 established in the most recent edition of the diagnostic
14 and statistical manual of mental disorders published by the
15 American Psychiatric Association; or

16

17 (ii) Is incurred after June 30, 2009 and before
18 July 1, 2011 by a worker who at the time of the injury is
19 working as an employee in North American Industry
20 Classification subsector 922 or as a volunteer described in
21 W.S. 27-14-108(e)(i), (iii) or (vi) and which:

22

23 (A) Includes a diagnosis of posttraumatic
24 stress disorder by a licensed psychiatrist or a licensed

1 clinical psychologist using criteria established in the
2 most recent edition of the diagnostic and statistical
3 manual of mental disorders published by the American
4 Psychiatric Association;

5

6 (B) Is the result of a single extraordinary
7 event, with sudden onset following the event.

8

9 (c) If a combination of employment related and
10 nonemployment related events contribute to a mental injury,
11 the injury shall be compensable only if it is caused
12 primarily by the work related event.

13

14 (d) A mental injury is not compensable if it is the
15 result of disciplinary action, work evaluation, job
16 transfer, layoff, demotion, termination or any similar
17 action taken in good faith by the employer.

18

19 (e) Compensable medication for a mental injury shall
20 be limited to those medications approved by the United
21 States food and drug administration for the diagnosed
22 injury.

23

1 (f) An aggravation of a preexisting mental condition
2 shall be compensable only if the aggravation is a material
3 aggravation and the relationship of the aggravation to the
4 claimant's employment is established by clear and
5 convincing evidence.

6

7 (g) The filing of an injury report for a mental
8 injury not caused by a physical injury shall include a
9 disclosure of any diagnosis or treatment received by the
10 claimant for the same or a related condition.

11

12 (h) If an employee's report of injury for a mental
13 injury is not filed as required by W.S. 27-14-502(a), the
14 presumption that the claim shall be denied shall not be
15 rebuttable if more than six (6) months have elapsed between
16 the date of injury and the filing of the employee's injury
17 report.

18

19 (j) The division may by rule and regulation adopt a
20 list of preferred medications for mental injuries based on
21 clinical efficacy and safety as well as cost to the
22 workers' compensation account.

23

1 (k) Benefits for injuries described in paragraph
2 (b)(i) of this section shall be payable for not more than
3 twelve (12) months after an injured employee's physical
4 injury has healed to the point that it is not reasonably
5 expected to substantially improve.

6
7 (m) Benefits for injuries described in paragraph
8 (b)(ii) of this section shall be payable for not more than
9 twelve (12) months after the date of diagnosis and shall be
10 limited to payment of medical and hospital care and
11 temporary total disability.

12

13 **Section 2.** W.S. 27-14-102(a)(xi)(J) is amended to
14 read:

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16 **27-14-102. Definitions.**

17

18 (a) As used in this act:

19

20 (xi) "Injury" means any harmful change in the
21 human organism other than normal aging and includes damage
22 to or loss of any artificial replacement and death, arising
23 out of and in the course of employment while at work in or
24 about the premises occupied, used or controlled by the

1 employer and incurred while at work in places where the
2 employer's business requires an employee's presence and
3 which subjects the employee to extrahazardous duties
4 incident to the business. "Injury" does not include:

5
6 (J) Any mental injury ~~unless it is caused~~
7 ~~by a compensable physical injury, it occurs subsequent to~~
8 ~~or simultaneously with, the physical injury and it is~~
9 ~~established by clear and convincing evidence, which shall~~
10 ~~include a diagnosis by a licensed psychiatrist or licensed~~
11 ~~clinical psychologist meeting criteria established in the~~
12 ~~most recent edition of the diagnostic and statistical~~
13 ~~manual of mental disorders published by the American~~
14 ~~Psychiatric Association. In no event shall benefits for a~~
15 ~~compensable mental injury be paid for more than six (6)~~
16 ~~months after an injured employee's physical injury has~~
17 ~~healed to the point that it is not reasonably expected to~~
18 ~~substantially improve~~ except as provided in W.S. 27-14-409.

19

20 **Section 3.**

21

22 (a) The department of employment shall annually
23 report to the joint labor, health and social services
24 interim committee by October 1 on:

1

2 (i) The number of workers compensation claimants
3 reporting an injury pursuant to W.S. 27-14-409(b)(i) or
4 (ii);

5

6 (ii) The number and percent of injuries
7 described in paragraph (i) of this subsection that were
8 determined to be compensable claims;

9

10 (iii) The cumulative medical and indemnity
11 benefits paid by year for compensable mental injuries;

12

13 (iv) The median and mean duration in months
14 of payments for compensable mental injuries.

15

16 **Section 4.** This act is effective July 1, 2009.

17

18

(END)