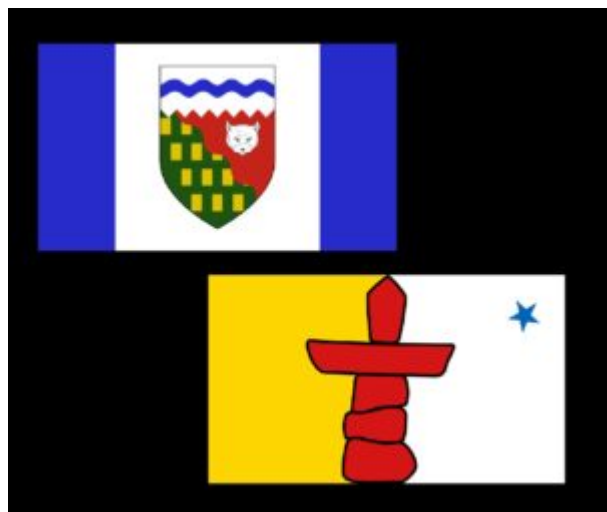


# OHS Director's Briefing: Workers' Comp Coverage of PTSD and Mental Stress in Northwest Territories & Nunavut



In Northwest Territories and Nunavut, workers' comp coverage of PTSD and other work-related psychological disorders is limited to trauma, both acute and gradual onset. There are also no coverage presumptions for mental stress the way there are in most other jurisdictions.

## COVERAGE RULES UNDER THE ACT

Section 10 of the *Workers' Compensation Act* says that workers are entitled to compensation for personal injury or disease they suffer arising out of and during the course of employment. Section 12(b) specifically excludes coverage for 'mental stress arising out of labour relations. . . including mental stress caused by wrongful dismissal, unless the act or omission that caused the mental stress was made with intent to harm the worker.'

## WSCC COVERAGE RULES

The Act tells us when mental stress is *not* covered but not when it *is*. Workers' Safety Compensation Commission (WSCC) Policy 3.09 fleshes out the Act by explaining when mental stress *is* compensable, i.e., payable under workers' comp. The WSCC Policy lists 4 conditions:

### 1. Triggering Incident(s) Must Be Traumatic\*

Unlike some jurisdictions, Northwest Territories and Nunavut limit coverage to mental stress resulting from an emotional reaction to **traumatic** events, which the WSCC describes as 'unusual and unexpected' incidents with a specific and identifiable time and place. Examples:

- Witnessing a fatality or horrific injury;
- Being the victim of an armed robbery or hostage-taking;
- Being subjected to acts or believable threats of physical violence; and

- Being subjected to harassment causing severe psychological harm.

This policy rules out stress caused by exposure to workplace stressors that are serious enough to cause psychological harm but not serious enough to rise to the traumatic level.

Another potential obstacle to coverage is that the WSCC uses an objective rather than subjective standard to determine if an event is traumatic. In other words, the fact that the particular worker was traumatized isn't conclusive; the event must be such that a reasonable person in the worker's situation would have found the event traumatic.

### **Single vs. Multiple Exposures**

While trauma-induced stress is normally an acute reaction to a single incident, the WSCC recognizes that it may also result from exposure to multiple traumatic events over a period of time. Policy 3.09 provides for coverage of such cumulative stress as long as the most recent episode triggering the reaction is traumatic. Example: A paramedic that has responded to 10 fatal and gory traffic accidents gets pushed closer to the edge until finally snapping when exposed to the same traumatic conditions during response 11.

Policy 3.09 also clarifies that:

- Being the victim of workplace harassment may qualify as the kind of traumatic event triggering a compensable claim for cumulative stress, provided that the harassment allegations are proven; and
- Normal work-related pressures and labour issues, including interpersonal conflict and conflict not rising to the level of harassment, are not valid triggers.

### **2. Must Be Work-Related**

The traumatic event(s) must arise out of and in the course of the worker's employment.

### **3. Disorder Must Be Recognized**

The disorder the worker suffers in reaction to a traumatic event(s) must be described in the American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders* (DSM), e.g., PTSD, anxiety or depressive disorder or acute stress disorder.

### **4. Must Be Proper Diagnosis**

Finally, the physical or mental disorder must be appropriately diagnosed under DSM guidelines.

### **No Coverage Presumptions**

Unlike most jurisdictions, Northwest Territories/Nunavut workers' comp laws include no presumptions, i.e., situations where mental stress is presumed to be covered such as when the victim is an emergency response worker.

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### Note

\* In addition to the traumatic events triggers, Policy 3.09 lists 3 other types of incidents that can cause compensable mental stress:

- A work-related head injury, exposure to toxic chemicals or gases, anoxia or any other work-related injury, disease or condition causally connected to organic brain damage, which includes mental disorders resulting from medication used to treat a work-related injury);
- An emotional reaction to a work-related physical disability;
- An emotional reaction to a WSCC sponsored treatment of a compensable injury;

#### LEGAL SOURCES

- The Workers' Compensation Act
- WSCC Policy 3.09'Psychiatric and Psychological Disorders