Presumptive Workers’ Compensation Coverage for First Responders with Occupational Stress Injuries Including Post-Traumatic Stress Disorder

A Written Submission Pertaining to the WorkplaceNL Review of its Mental Stress Policy and Mental Stress Coverage in the Workers’ Compensation Legislation

Paul Davis, MHA Topsail-Paradise
Leader of the Official Opposition
February 1, 2018

CONTENTS

Introduction ............................................................................................................................................. 2
Current Policy ......................................................................................................................................... 4

CORE PROPOSAL:
Recognizing the Occupational Stress Injuries of First Responders ..................................................... 7

Nova Scotia ........................................................................................................................................... 13
New Brunswick ...................................................................................................................................... 20
Ontario .................................................................................................................................................. 23
Manitoba ............................................................................................................................................... 32
Saskatchewan ........................................................................................................................................ 41
Alberta .................................................................................................................................................. 47
Introduction

In a news release dated November 23, 2017, WorkplaceNL announced that it had initiated a review of its mental stress policy (Policy EN-18), and that “the goal of the review is to modernize the approach to work-related mental health issues, including post-traumatic stress disorder.”

The news release referred to a two-stage process, the first of which was described as an immediate policy review, and the second of which was described as follows: “In the longer-term, a review of mental stress coverage in the Workers’ Compensation legislation will be informed by formal research and input from interested parties. WorkplaceNL will accept written submissions pertaining to this review until February 1, 2018.”

In context, the relevant content of the WorkplaceNL news release reads as follows:

NEWS RELEASE
http://www.workplacenl.ca/news.whscc

WorkplaceNL to modernize approach to work-related mental health issues
Thursday, November 23, 2017

St. John’s, NL – WorkplaceNL has initiated a review of its mental stress policy (Policy EN-18). The goal of the review is to modernize the approach to work-related mental health issues, including post-traumatic stress disorder. WorkplaceNL is also partnering with workplace parties to develop occupational health and safety programs that support mental health in the workplace, including workshops and webinars.

WorkplaceNL and the Hon. Sherry Gambin-Walsh, Minister Responsible for WorkplaceNL met with interested parties on November 15, 2017 to seek input on the prevention of, and compensation for, work-related mental stress.

Potential changes will come from a two-stage process.

The first is the immediate policy review, where changes will be informed by a review of mental-health related policies of other Canadian workers’ compensation boards and consultation with WorkplaceNL’s primary stakeholders, the Newfoundland and Labrador Federation of Labour and the Newfoundland and Labrador Employers’ Council. This is WorkplaceNL’s standard policy consultation process.

In the longer-term, a review of mental stress coverage in the workers’ compensation legislation will be informed by formal research and input from interested parties. WorkplaceNL will accept written submissions pertaining to this review until February 1, 2018.

WorkplaceNL will engage a research partner to conduct research and review literature relating to work-related mental health issues, particularly as it relates to workplaces in Newfoundland and Labrador.

In an interview reported by VOCM News on January 12, 2018, Minister Sherry Gambin-Walsh commented on whether the current review would welcome presentations with
respect to Workers’ Compensation coverage for first responders who suffer from occupational stress injuries (OSI) including post-traumatic stress disorder (PTSD).

VOCM presented its story as follows:

**NEWS STORY**


Review Of Mental Health Policy Regarding First Responders Coming: Gambin-Walsh

VOCM News, January 12, 2018, 10:49 am

The minister responsible for Workplace NL says there is an ongoing internal review of its mental health policy, but Sherry Gambin-Walsh says a more indepth study hasn’t yet begun.

The minister was responding to Opposition Leader Paul Davis, who is calling for changes to the policy to ensure first responders who suffer from occupational stress injuries or PTSD get the coverage they need.

Davis is urging the public to send written submissions to Workplace NL online.

But Gambin-Walsh says Workplace NL will be contracting out to complete a full research study, and says that hasn’t happened just yet. The minister says both activities aim to modernize the policy. But right now, she says they’re just looking at the mental health policy, which she admits is outdated. A larger consultation process will happen later.

Davis wants to see government enact workers’ compensation legislation containing a presumptive clause with respect to front-line emergency workers, like firefighters, paramedics and police officers.

He says first responders are more than twice as likely to attempt suicide.

The Minister’s comments caused confusion. WorkplaceNL’s November 23, 2017 news release clearly made the linkage between the February 1, 2018 submission deadline and the “longer-term” review of mental stress coverage in the Workers’ Compensation legislation.

According to WorkplaceNL’s news release, both stages of the review process were intended to review its “mental stress policy (Policy EN-18)” and “to modernize the approach to work-related mental health issues, including post-traumatic stress disorder.” WorkplaceNL’s news release specifically mentioned PTSD.

**Therefore, this presentation reflects precisely what WorkplaceNL asked for in its call for submissions, by addressing the issue of Workers’ Compensation coverage for “work-related mental health issues, including post-traumatic stress disorder” for first responders. The focus is on injury or diagnosis resulting from an accumulation of workplace stress that is often experienced by first responders and other classes of workers. Such injuries are not respected or compensable in this province under current rules.**
Current Policy

WorkplaceNL’s current policy on Mental Stress (Policy EN-18), as referenced in its November 23, 2017 news release, reads as follows:

POLICY STATEMENT
http://www.workplacenl.ca/policies.whsc

Client Services Policy Manual

Policy Number: EN-18
Subject: Mental Stress
Chapter: Entitlement

Policy Statement

Compensation for mental stress is only considered where disability develops as an acute reaction to a sudden and unexpected traumatic event arising out of and in the course of the employment.

Mental stress that develops gradually over time due to general workplace conditions, or stress that may be the result of an employer’s decision or action relating to the employment of a worker including a decision to change the work to be performed or the working conditions, to conduct disciplinary or investigative processes, to discipline the worker, or to terminate the worker’s employment, do not constitute an injury.

The merits and justice of each case must be considered.

Acute Reaction

Mental stress which develops as a result of a traumatic event is considered an acute reaction, even though the reaction may be delayed for days, or even weeks. Delayed acute reaction is not the same as a gradual onset of mental stress which is not compensable under this policy.

Traumatic Event

A sudden and unexpected traumatic event is one which is considered uncommon with respect to inherent risks of the occupation and is usually horrific, or has elements of actual or potential violence.

Examples of traumatic events include, but are not limited to:
- witnessing a fatality;
- being the victim of an armed robbery or hostage-taking incident;
- being subjected to physical violence; and
- being subjected to death threats where there is reason to believe the threat is serious.

Non Compensable Events and/or Conditions

Claims arising from events that would generally not be considered traumatic but are traumatic to a worker because of a pre-existing psychological condition will not be accepted.

“Burn out” from usual duties, workplace change, or performance demands is not compensable. Claims
associated with an employer’s work-related actions such as employment termination, demotion, discipline, disciplinary or investigative processes, transfer, work schedules, or performance expectations are not acceptable.

Medical Evidence

Medical evidence from the treating physician must confirm mental stress resulting from the traumatic event. WorkplaceNL may require medical confirmation under the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) to substantiate ongoing entitlement.

Entitlement for other stress-related conditions resulting from psychological conditions or chronic pain following physical injury may be considered under policies EN-19 Arising Out of and in the Course of Employment, HC-13 Health Care Entitlement or EN-07 Chronic Pain.

Reference:
Workplace Health, Safety and Compensation Act, Sections 2(1)(o), 2(2), 19 and 73.

Policies
EN-07 Chronic Pain
EN-19 Arising Out of and in the Course of Employment
HC-13 Health Care Entitlement

Amendment History
Original Effective Date 1999 06 01
Revision #1 2016 12 15

The current policy clearly states:

- “Compensation for mental stress is only considered where disability develops as an acute reaction to a sudden and unexpected traumatic event....”

- “Mental stress that develops gradually over time due to general workplace conditions... [does] not constitute an injury.”

- “Mental stress which develops as a result of a traumatic event is considered an acute reaction, even though the reaction may be delayed for days, or even weeks. Delayed acute reaction is not the same as a gradual onset of mental stress which is not compensable under this policy.”

- “Claims arising from events that would generally not be considered traumatic but are traumatic to a worker because of a pre-existing psychological condition will not be accepted.”

- “Medical evidence from the treating physician must confirm mental stress resulting from the traumatic event.”
In other words, compensation is considered under WorkplaceNL’s current policy only if the mental stress develops as a result of a single traumatic event that a treating physician can pinpoint.

Compensation is apparently not considered under this policy if the mental stress develops gradually or progressively as a result of the cumulative impact of traumatic events that the person experiences during the course of the person’s career.
CORE PROPOSAL:

Recognizing the Occupational Stress Injuries of First Responders

First responders include paid and volunteer firefighters, paramedics, emergency medical technicians, police officers, nurses, physicians, allied health professionals, social workers, continuing care assistants, 911 and emergency dispatch workers, provincial and federal correctional officers, search and rescue personnel, and others.

First responders are expected to respond to emergency situations where lives are at risk, lives have been lost or injuries have been sustained. In some emergency circumstances, the lives of the first responders are also in jeopardy.

At times, a stressful aspect of the experience is the anticipation of things that may or may not transpire: the unforeseen potential for violence that may be faced without notice; the floorboard that may give way in the fire, or the explosion that may envelop you; the contagion that the patient may be exposing you to; the sudden cardiac arrest or uncontrollable bleed that may leave you powerless to save the patient; the story that the traumatized child has yet to tell you; and so forth. First responders have to brace themselves to respond to scenarios that may not occur, but the impact on them may be no less traumatizing, and the cumulative impact may be no less devastating.

Pinpointing a particular event – a “sudden and unexpected traumatic event” that caused “an acute reaction” – may be impossible. If that singular event cannot be pinpointed, then it may not even be possible to establish that there was a “delayed acute reaction.” The problem is that the “event” may have been the situation, strung out over a period of hours, weeks, months or years. The “event” may be entirely internal, related to catastrophes that did not occur but that COULD have occurred and that one needed to brace for. Or the “event” may be relatively innocuous in itself, but layered on a long series of other events, becomes the proverbial straw that broke the camel’s back. Yet, WorkplaceNL’s current policy on Mental Stress explicitly excludes “gradual onset” mental stress, and it explicitly excludes events that “are traumatic to a worker because of a pre-existing psychological condition” – a condition created by an accumulation of exposures to trauma in the course of one’s career as a first responder.

It is wrong to exclude from Workers’ Compensation coverage an injury that was caused by the circumstances of a first responder’s work simply because of an arbitrary line in the sand that was drawn without justification. In this day and age, it is surely wrong to discriminate against a worker because the workplace injury is a “mental” stress injury. We have progressed too far in recent years to allow workers to be discriminated against because the illnesses they suffer are “merely” mental health illnesses. The injuries are real; they were caused or aggravated by the workers’ work and are therefore
work-related injuries; and the workers are suffering hardships, including financial hardships, because of those injuries. They ought to be protected by the Workers’ Compensation system.


In some occupations, the risk of injury or illness has always been great. Asbestos mining was one of them. If a miner developed a lung disease, it was a reasonable presumption that the illness was work related. Efforts to make workplaces less risky have been very successful in many professions; but in some, the risks remain great. According to the International Labour Organization, fishing is one of the world’s most dangerous professions, even today <http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_071324/lang--en/index.htm>. So what does one do? One strives to make these workplaces as safe as possible, knowing there will always be risks that go with the job. What about the option of eliminating the risk by eliminating the profession altogether? We rely on the fishing industry. Eliminating that industry is not a reasonable option. We do our very best to make the industry safer, and we admire and commend those who have the courage to do the work; but we also ensure these professionals are quickly and fairly compensated if an unfortunate workplace injury befalls them. That is how the Workers’ Compensation system is supposed to work.

But what about first responders? Could our society function without people to shoulder the responsibilities of these professions? Could our society function without paid and volunteer firefighters, paramedics, emergency medical technicians, police officers, nurses, physicians, allied health professionals, social workers, continuing care assistants, 911 and emergency dispatch workers, provincial and federal correctional officers, search and rescue personnel, and other first responders? No, it could not.

We do our very best to lower some of the risks to first responders by providing innovative equipment and training, but we are not so effective in reducing the risks of trauma-related stress, particularly the stresses that pile up quietly over the years and that their toll on the worker’s health. It is only in recent years that our society has begun to appreciate more fully the reality of this stress and its debilitating consequences.

Unfortunately, the Workers’ Compensation program has not kept pace with advances in our understanding of occupational stress injuries including post-traumatic stress disorder. At a time when they may be barely capable of coping with their lives because of post-traumatic stress, they must endure the added stress of proving they have been traumatized by their work.
The situation is not just cruel, but patently unjust and irresponsible. Workers' Compensation programs must protect first responders from the financial hardships associated with work-related stress injuries and occupational diseases they suffer. The Workers’ Compensation program must be brought into the modern era to cover occupational stress injuries such as post-traumatic stress disorder suffered by first responders.

Moreover, the system ought to recognize that the work of first responders is intrinsically stressful, and a diagnosis of a stress injury such as PTSD in such a person should be “presumed” to be work related. The Workers’ Compensation program ought to include a presumptive clause that relieves a first responder of having to prove that a diagnosed stress injury such as PTSD is work related. The first responder should not be obligated to associate the injury with a particular traumatic event that induced an acute response. The reality of cumulative, gradual-onset stress injuries ought to be recognized and affirmed in our Workers’ Compensation system.

Otherwise, first responders dealing with debilitating injuries may be financially and mentally incapable of dealing with the injuries their work has caused them to suffer. They may slip into poverty, unable to work, suffer from interpersonal relationship difficulties, inappropriate or excessive use of alcohol or drugs, or they may continue to work, unable to afford to take time away to heal. Failure to properly recognize and treat an OSI such as PTSD can lead to terrible consequences. Lives have been lost to self-harm because of poorly treated or untreated PTSD. Our society is becoming well aware of those consequences. It is no longer acceptable to contend that gradual-onset OSI such as PTSD in first responders is not work related. It would be morally wrong to fail to adjust public policies accordingly.

Other jurisdictions have taken the lead in adjusting their Workers’ Compensation policies, and we ought to follow their lead. Other provinces, including Nova Scotia, New Brunswick, Ontario and Alberta, have introduced presumptive coverage legislation for first responders. They have, in effect, recognized PTSD as an illness that is often the result of an accumulation of repeated exposures and experiences that first responders have in the course of their careers. Other jurisdictions haven’t just made a policy change; they introduced legislation and made laws pertaining to presumptive coverage for applicable classifications of workers.

This presentation considers what those other jurisdictions have done.

I therefore recommend acceptance of the best practices established by the provinces of Nova Scotia, New Brunswick, Ontario and Alberta as the best course of action for Newfoundland and Labrador. It would be a reasonable, responsible and defensible step forward for Newfoundland and Labrador to follow the lead of Nova Scotia, New Brunswick, Ontario and Alberta by
extending presumptive Workers’ Compensation coverage to all first responders in this province who have been diagnosed with PTSD.

The Canadian Labour Congress provided an overview of the legislative provisions of the provinces that have them. That overview – which is now a little outdated (as it excludes Nova Scotia and requires an update for Alberta) – is presented here and then followed by detailed information for each of the provinces that have legislated provisions.

OVERVIEW
http://canadianlabour.ca/work-related-ptsd

Work-related PTSD

There is a growing recognition that workplaces can be a direct cause of post-traumatic stress disorder (PTSD).

It is generally harder to prove that a mental illness is a workplace injury, because there are so many factors involved. For example, a high-stress environment may contribute to an episode of mental illness, but it’s not easy to demonstrate the connection.

But 6 provinces have passed legislation that makes a direct link between psychological disorders like PTSD and workplace trauma. Under most of these laws, some workers diagnosed with PTSD will be able to claim workers’ compensation benefits without having to prove that their illness was caused by their workplace. This kind of legislation presumes that the PTSD is a workplace injury.

Only in Manitoba & Saskatchewan are all workers covered by this legislation, in rest of the provinces only some first responders are covered.

Here are links and information about work-related PTSD in each of the provinces that have legislation covering it.

New Brunswick

In 2016, New Brunswick passed legislation that presumes if firefighters, police officers, sheriffs and paramedics are diagnosed with PTSD that it was caused by issues they dealt with on the job.
http://www.worksafenb.ca/acts-and-regulations
Ontario

In 2016, Ontario passed legislation creating a presumption that PTSD in first responders is a workplace injury.

The legislation covers workers in these jobs:

- Police, including First Nations constables, and chiefs of police
- Full-time, part-time, and volunteer firefighters, fire investigators, and fire chiefs
- Paramedics, emergency medical attendants, and ambulance service managers
- Emergency service dispatchers
- Correctional officers and youth service workers
- Emergency response team members dispatched by a communications officers

The Ontario government has general information about the legislation in English [here](https://www.labour.gov.on.ca/english/hs/ptsd.php) and in French [here](https://www.labour.gov.on.ca/french/hs/ptsd.php).

Ontario has a PTSD Resource Toolkit for first responders [here](http://www.firstrespondersfirst.ca/) (It is available in English only.)

Manitoba

In Manitoba, if a worker “is exposed to certain types of traumatic events and is diagnosed with Post-Traumatic Stress Disorder (PTSD), the WCB can presume the PTSD is caused by the worker's employment, unless the contrary is proven.”

In other words, it is not up to the worker to prove that the workplace caused PTSD. This legislation applies to all workers, and not just first responders – Manitoba is the first province to provide this coverage for all workers.

The Workers Compensation Board of Manitoba has an overview here: [here](https://www.wcb.mb.ca/ptsd-presumption-0)

There is more detailed information at [here](https://www.wcb.mb.ca/post-traumatic-stress-disorder-ptsd-presumption-faq) (Click “View File” at bottom right to open the document.)

Saskatchewan

In 2016, Saskatchewan updated its Workers’ Compensation Act. The law now says that if a worker suffers a psychological injury because of traumatic events that took place at work, it will be presumed that the injury is a result of the workplace trauma.

Saskatchewan’s law covers all workers, and not just first responders. Saskatchewan is also the only province that does not limit presumption to PTSD, but includes all forms of psychological injury.
The presumption that a worker’s mental illness was caused in the workplace is rebuttable though. That means that workers are given the benefit of the doubt, but employers can still challenge the decision.

The Saskatchewan Workers’ Compensation Board has a factsheet on the changes here: https://www.wcbsask.com/amendments-to-the-workers-compensation-act-to-recognize-psychological-injury/

Alberta

In 2012, Alberta became the first province to recognize presumptive coverage for PTSD. Under Alberta law, if first responders are diagnosed with PTSD, it will be assumed that their illness was caused by their work, and they will be eligible for WCB coverage.

The law applies to emergency medical technicians, firefighters, sheriffs, and police officers (excluding members of the RCMP).

The Workers’ Compensation Board of Alberta has a PTSD factsheet here: https://www.wcb.ab.ca/assets/pdfs/workers/WFS_PTSD.pdf

British Columbia

British Columbia’s WCB, called WorkSafeBC, does cover mental disorders.

However, the province does not have legislation presuming that a worker’s psychological injury is linked to workplace trauma. Under current BC law, workers have to prove that their psychological injury is linked to traumatic events at work – they don’t get the benefit of the doubt. (The relevant clause in the legislation is here WCB Section 5.1)

BC also recognizes workplace bullying and harassment as situations which can lead to compensation.

WorkSafeBC has information on how psychological injuries are covered here: http://www2.gov.bc.ca/gov/content/careers-myhr/managers-supervisors/occupational-health-safety/worksafebc-reporting

Below are the details on the respective provinces with legislated provisions.
Nova Scotia

In 2017, the Legislature of Nova Scotia passed the following Bill to amend the Workers’ Compensation Act. Note in particular subsection 12A(2), which reads: “Subject to subsections (3) to (5), where a front-line or emergency-response worker is diagnosed with post-traumatic stress disorder by a prescribed diagnostician, the post-traumatic stress disorder is, unless the contrary is shown, presumed to have arisen out of and in the course of the worker’s employment in response to a traumatic event or a series of traumatic events to which the worker was exposed in carrying out the worker’s duties as a front-line or emergency-response worker.”

LEGISLATION
https://nslegislature.ca/legc/bills/63rd_1st/3rd_read/b007.htm

BILL NO. 7 (as passed, with amendments)

1st Session, 63rd General Assembly, Nova Scotia, 66 Elizabeth II, 2017
Government Bill: Workers’ Compensation Act (amended)
CHAPTER 16 OF THE ACTS OF 2017

The Honourable Labi Kousoulis, Minister responsible for Part I of the Workers’ Compensation Act
First Reading: September 27, 2017 (LINK TO BILL AS INTRODUCED)
Second Reading: October 3, 2017
Third Reading: October 24, 2017 (WITH COMMITTEE AMENDMENTS)
Royal Assent: October 26, 2017

An Act to Amend Chapter 10 of the Acts of 1994-95, the Workers’ Compensation Act

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 10 of the Acts of 1994-95, the Workers’ Compensation Act, is amended by striking out “pneumoconiosis” in the last line of clause (v) and in the first line of clause (x) and substituting in each case “pneumoconiosis”.

2 Clause 6(1)(c) of Chapter 10 is amended by striking out "College" in the second line and substituting "Colleges".

3 Chapter 10 is further amended by adding immediately after Section 12 the following Section:

12A (1) In this Section,

(a) "front-line or emergency-response worker" means a continuing-care assistant, correctional officer, emergency-response dispatcher, firefighter, nurse, paramedic, police officer or person in an occupation prescribed by the regulations;

(b) "post-traumatic stress disorder" means posttraumatic stress disorder as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;

(c) "prescribed diagnostician" means a person prescribed by the regulations who may diagnose a
worker with post-traumatic stress disorder for the purpose of this Section.

(2) Subject to subsections (3) to (5), where a front-line or emergency-response worker is diagnosed with post-traumatic stress disorder by a prescribed diagnostian, the post-traumatic stress disorder is, unless the contrary is shown, presumed to have arisen out of and in the course of the worker's employment in response to a traumatic event or a series of traumatic events to which the worker was exposed in carrying out the worker's duties as a front-line or emergency-response worker.

(3) The presumption created by subsection (2) applies on and after the date prescribed by the regulations, which date may be before, on or after the date on which subsection (2) comes into force.

(4) The presumption created by subsection (2) applies if the worker is diagnosed

(a) while the worker is employed as a front-line or emergency-response worker; or

(b) within the period prescribed by the regulations following the worker ceasing to be employed as a front-line or emergency-response worker.

(5) A worker is not entitled to benefits under this Act for post-traumatic stress disorder if it is shown that the worker's post-traumatic stress disorder was caused by a decision or action of the worker's employer relating to the worker's employment, including a decision to

(a) change the work to be performed or the working conditions;

(b) discipline the worker; or

(c) terminate the worker's employment.

(6) Subject to the regulations, the Board shall assist a front-line or emergency-response worker who is entitled to benefits for post-traumatic stress disorder under this Act in obtaining treatment from a culturally competent clinician who is familiar with the research concerning treatment for post-traumatic stress disorder.

(7) Where a worker has filed a claim in respect of post-traumatic stress disorder before the coming into force of this Section and the claim has been denied, the worker may re-file the claim under this Section unless prohibited from doing so by the regulations.

(8) The Governor in Council may make regulations

(a) prescribing occupations for the purpose of the definition of front-line or emergency-response worker;

(b) prescribing persons as prescribed diagnosticians;

(c) prescribing the date on and after which the presumption created by subsection (2) applies, which prescribed date may be before, on or after the date on which subsection (2) comes into force;

(d) prescribing the period following the worker ceasing to be employed as a front-line or emergency-response worker within which a diagnosis of post-traumatic stress disorder must be made for the presumption created by subsection (2) to apply;
(e) respecting the obligation of the Board to assist a front-line or emergency-response worker under subsection (6);

(f) respecting the circumstances in which a worker is prohibited from re-filing a claim under subsection (7);

(g) defining "continuing-care assistant", "correctional officer", "emergency-response dispatcher", "firefighter", "nurse", "paramedic", "police officer" and any other word or expression used but not defined in this Section;

(h) respecting any matter the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Section.

(9) The exercise by the Governor in Council of the authority contained in subsection (8) is regulations within the meaning of the Regulations Act.

4 Clause 13(1)(a) of Chapter 10 is amended by striking out "pneumonoconiosis" in the second and third lines and substituting " pneumoconiosis ".

5 (1) Clause 14(1)(b) of Chapter 10 is amended by striking out "pneumonoconiosis" in the third line and substituting "pneumoconiosis ".

(2) Subsection 14(4) of Chapter 10 is amended by striking out "pneumoconiosis" in the fifth line and substituting "pneumoconiosis".

6 (1) Section 83 of Chapter 10 is amended by adding immediately after subsection (2) the following subsection:

(2A) In the case of post-traumatic stress disorder as defined in Section 12A, the Board shall not pay compensation except where
(a) the worker has given the employer notice of the injury as soon as practicable after the worker is diagnosed with post-traumatic stress disorder; and
(b) the worker's claim for compensation is made within the period prescribed by the regulations after the worker is diagnosed with post-traumatic stress disorder in accordance with Section 12A and the regulations made under that Section.

(2) Section 83 of Chapter 10 is further amended by adding immediately after subsection (4) the following subsection:

(4A) The notice required pursuant to clause (2A)(a) shall contain the particulars set out in subsection (3) and is to be given to the employer who last employed the worker in the employment causing the post-traumatic stress disorder.

(3) Subsection 83(6) of Chapter 10 is amended by

(a) striking out "or" at the end of clause (a);

(b) striking out the comma at the end of clause (b) and substituting "; or"; and

(c) adding immediately after clause (b) the following clause:
(c) the date when the worker is diagnosed with post-traumatic stress disorder,

(4) Section 83 of Chapter 10 is further amended by adding immediately after subsection (6) the following subsections:

(7) The Governor in Council may make regulations prescribing the period for the purpose of clause (2A)(b).

(8) A regulation made under subsection (7) may be of general application or may apply in respect of a worker on the basis of when the worker is diagnosed with post-traumatic stress disorder in accordance with Section 12A and the regulations made under that Section, and there may be different regulations in respect of workers diagnosed at different times.

(9) The exercise by the Governor in Council of the authority contained in subsection (7) is regulations within the meaning of the Regulations Act.

7 Clause 89(1)(b) of Chapter 10 is amended by striking out "sub-class" in the first line and substituting "subclass".

8 Subsection 124(4) of Chapter 10 is amended by striking out "ratably" in the second line and substituting "rateably".

9 Clause 143(4)(b) of Chapter 10 is amended by striking out "set off" in the second line and substituting "set-off".

10 Subsection 160(1) of Chapter 10, as amended by Chapter 1 of the Acts of 1999, is further amended by striking out "April 1st" in the third line and substituting "June 30th".

11 The heading immediately before Section 185 is repealed and "DECISION-MAKING" substituted.

12 This Act comes into force one year after the day on which it receives Royal Assent.

The Government of Nova Scotia issued the following news release on September 27, 2017:

NEWS RELEASE
https://novascotia.ca/news/release/?id=20170927003

Amendments Improve Access to PTSD Benefits

Labour and Advanced Education
September 27, 2017 1:16 PM

Government is making it easier for front-line and emergency response workers diagnosed with post-traumatic stress disorder (PTSD) to access benefits.

Amendments to the Workers’ Compensation Act introduced today, Sept. 25, will ensure covered workers no longer have to prove their PTSD diagnosis was caused by a workplace incident.

“Our front-line and emergency response workers have often witnessed great tragedy, sadness, and loss
when helping those in need,” said Labour and Advanced Education Labi Kousoulis. “We want to make it easier for those who suffer from PTSD to access benefits and treatment. These changes are a step in the right direction.”

“I’m pleased that the Nova Scotia government has listened to the concerns of front line and emergency response workers and is addressing them through these amendments,” said Vince Savoia, founder and executive director, Tema Conter Memorial Trust. “This will help ensure police officers, firefighters, paramedics and other frontline workers get the care they need when they need it.”

During the summer, government talked to employees and employers about barriers to coverage and treatment for workers diagnosed with post-traumatic stress disorder. The consultation involved nurses, first responders, correctional services, paramedics, psychiatrists, health sector workers and other organizations. Feedback helped shape the amendments and will inform the upcoming regulations.

While occupational stress due to traumatic events, including PTSD, has always been covered under the Workers’ Compensation Act, for all workers, it currently requires covered workers to prove their diagnosis is a direct result of a workplace incident. Some PTSD sufferers avoid getting help because of this process.

The proposed amendments will:
-- clarify that PTSD is presumed to be a result of an incident during employment
-- define who is eligible for presumptive PTSD benefits. This will include police, paid and volunteer firefighters, paramedics, nurses, continuing care assistants, 911 and emergency dispatch workers, and provincial and federal correctional officers with workers’ compensation coverage
-- allow coverage for other occupations to be added by regulation
-- outline that new regulations will establish who can diagnose PTSD and time limits for eligibility.

The province is committed to addressing workplace mental health, and the introduction of these amendments is part of this effort.

The amendments will take effect one year from royal assent to allow time for government to work with stakeholders to develop the supporting regulations.

A summary of consultations can be found at https://novascotia.ca/presumptive-ptsd-consultation

The Government of Nova Scotia published a “What We Heard” document to summarize the feedback.

REPORT

What We Heard:
Workers’ Compensation Act Amendments to Provide the Benefit of Presumption for Post Traumatic Stress Disorder

Supports for psychological injuries in the workplace, including PTSD, are already covered under the Workers’ Compensation Act.

But two challenges have arisen in relation to PTSD, especially as experienced by frontline and emergency response workers:

- It can be difficult to tell if a specific workplace incident caused the PTSD.
Workers suffering from PTSD may be reluctant to make a claim because of the stigma attached to mental illnesses.

To help address these challenges, government proposed changes to the Workers’ Compensation Act to ensure that those frontline and emergency response workers who are covered by the Workers’ Compensation Board of Nova Scotia get the care they need when they need it.

Government consulted with stakeholders on these proposed changes. The consultations took place from July 21 to September 15, 2017, and engaged over 150 individuals from about 40 organizations through interviews, focus groups, and written submissions. This summary report presents findings from the consultation process.

FEEDBACK

Across the consultation sessions, we heard consistent support for the idea of improving access to treatment and services for frontline and emergency response workers with PTSD. We also heard about possible challenges that could arise from these changes — and potential solutions.

Positive impacts of the proposed changes

Almost all consultation participants identified potential positive impacts of the proposed changes:

■ A quicker approval process for WCB claims could lead to improved access to care and treatment.
■ A reduction in employee time off work/sick time due to undiagnosed mental illness or stress.
■ A more streamlined claims process could mean reduced stress and trauma for those submitting a WCB claim.
■ Increased attention to and awareness of PTSD would reduce the stigma associated with it.

Possible challenges identified

Participants identified possible challenges that could result from the proposed changes:

■ Costs could be higher than projected.
■ Access to registered psychologists and psychiatrists could be further constrained.
■ The system is currently limited to access supports and service for treatment and return to work.
■ The scope of workers with equal exposure is missing.
■ The need for greater time to get a diagnosis; Time limits for eligibility are too constrained.

Potential solutions proposed

Participants proposed the following solutions to the challenges identified:

■ Ensure that employers, employees, government, and the WCB have clarity in their roles with regard to supporting those suffering with PTSD.
■ Create communications devices — such as websites or plain language documents — to help workers, family members, and employers navigate the process.
■ Work together — government, employers, employees, and WCB — to identify what would enhance the return to work program for suffers, such as quicker access to care, flexible treatment options, and alternative work placements.
■ Strengthen and expand the mental health care system in Nova Scotia, increase efforts to prevent PTSD, and create supportive organizational cultures, especially within organizations that employ frontline and emergency response workers.

GOVERNMENT’S NEXT STEPS

The valuable information gathered through the consultations helped shape the new Workers’
Compensation Act amendments being introduced in the House this fall.

The proposed legislation
- Establishes the nature and the scope of the presumption.
- Establishes an initial list of workers who may have access to the presumption called “frontline or emergency response workers.”
- Clarifies that a PTSD diagnosis is connected to a workplace incident.
- Establishes a PTSD diagnosis as a prerequisite to the presumption.

Frontline or emergency response workers are:
- Police, firefighters (paid and volunteer), paramedics, nurses, continuing care assistants, provincial and federal correctional officers, and emergency dispatchers.

The legislation will also create authority for regulations. Government and the WCB will spend the next year focusing on regulatory development to address some of the challenges raised during consultation. We will work with stakeholders as the details of the regulations unfold.

The regulations will ensure that
- The occupations listed under frontline or emergency response workers are well defined and adequately represented.
- Other occupations that may be exposed to similar traumatic events and are equally at risk can be added.
- Those given the authority to diagnose have the ability and expertise needed.
- Timelines for eligibility of presumption are clear.

Legislative amendments take effect one year from Royal Assent in fall 2018.
New Brunswick

In 2016, the Legislature of New Brunswick passed amendments to the Workers’ Compensation Act to include the following sections. Note in particular subsection 7.1(2), which reads: “Subject to this section, if an emergency response worker is diagnosed with post-traumatic stress disorder by a psychiatrist or psychologist, it shall be presumed, unless the contrary is shown, that the post-traumatic stress disorder arose out of and in the course of the worker’s employment in response to a traumatic event or a series of traumatic events to which the worker was exposed in carrying out the worker’s duties as an emergency response worker.”

LEGISLATION

7.1(1) The following definitions apply in this section.

“emergency response worker” means a firefighter, a paramedic or a police officer.

“firefighter” means a firefighter as defined in the Firefighters’ Compensation Act.

“paramedic” means a person whose name is entered in the register kept pursuant to paragraph 10(1)(a) of An Act Respecting the Paramedic Association of New Brunswick.

“police officer” means a police officer as defined in the Police Act.

“post-traumatic stress disorder” means post-traumatic stress disorder as that condition is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

“psychiatrist” means a psychiatrist as defined in the Mental Health Act.

“psychologist” means an individual who is a member of the College of Psychologists of New Brunswick and holds a licence issued under The College of Psychologists Act or an individual who is practising as a psychologist outside New Brunswick who is recognized as a psychologist by the licensing body of the jurisdiction in which that person practises.

7.1(2) Subject to this section, if an emergency response worker is diagnosed with post-traumatic stress disorder by a psychiatrist or psychologist, it shall be presumed, unless the contrary is shown, that the post-traumatic stress disorder arose out of and in the course of the worker’s employment in response to a traumatic event or a series of traumatic events to which the worker was exposed in carrying out the worker’s duties as an emergency response worker.

7.1(3) A worker is entitled to be paid compensation under this Act if

(a) the worker

(i) is an emergency response worker or was an emergency response worker on or after the day this section comes into force, and

(ii) is or was diagnosed with post-traumatic stress disorder by a psychiatrist or psychologist; and
New Brunswick’s initiative was addressed in a news article by the Canadian Press.

**NEWS ARTICLE**
https://atlantic.ctvnews.ca/n-b-introduces-compensation-legislation-for-first-responders-with-ptsd-1.2841946

**N.B. introduces compensation legislation for first responders with PTSD**

The Canadian Press  
Published Friday, April 1, 2016 5:12PM ADT  
Last Updated Friday, April 1, 2016 5:13PM ADT

FREDERICTON -- The wife of one of the three Mounties shot and killed in New Brunswick in June 2014 is applauding the provincial government’s efforts to help first responders suffering with post-traumatic stress disorder.

Angela Gevaudan says new legislation introduced Friday will help tear down the stigma associated with PTSD.

"The stigma that is associated to post-traumatic stress is part of the reason why so many people don't ask for help when they start experiencing symptoms and the earlier you ask for help, the easier it is to treat the issue," Gevaudan said Friday.

The amendments to the Workers’ Compensation Act mean that when first responders such as police officers and firefighters are diagnosed with PTSD, it will be presumed that the condition is the result of events they experienced in their job.

They will be entitled to be paid compensation.

Gevaudan says reliving the events in an effort to prove to your employer that you are struggling is retraumatizing, but the changes will mean that affected first responders can now focus on healing.

Gevaudan, whose husband Fabrice was killed June 4, 2014 in Moncton when gunman Justin Bourque
when on a shooting spree, says PTSD is a difficult issue and one that she is dealing with personally.

Constables Doug Larche and Dave Ross were also killed by Bourque, while constables Eric Dubois and Darlene Goguen were injured.

The idea for the legislation was the result of a private members bill introduced last year by Progressive Conservative member Ross Wetmore.
Ontario

In 2016, the Legislature of Ontario passed the following Bill to amend the Workplace Safety and Insurance Act, 1997 and the Ministry of Labour Act with respect to posttraumatic stress disorder. Note in particular subsection 14(6), which reads: “For the purposes of subsection (3), the posttraumatic stress disorder is presumed to have arisen out of and in the course of the worker’s employment, unless the contrary is shown.”

LEGISLATION

https://www.ontario.ca/laws/statute/S16004

Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016, S.O. 2016, c. 4 - Bill 163

CHAPTER 4

An Act to amend the Workplace Safety and Insurance Act, 1997 and the Ministry of Labour Act with respect to posttraumatic stress disorder

Assented to April 6, 2016

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Workplace Safety and Insurance Act, 1997

1. Subsection 13 (4) of the Workplace Safety and Insurance Act, 1997 is amended by striking out “subsection (5)” and substituting “subsections (5) and 14 (3)”.

2. The Act is amended by adding the following section:

Posttraumatic stress disorder, first responders and other workers

Definitions

14. (1) In this section,

“ambulance service” has the same meaning as in subsection 1 (1) of the Ambulance Act; (“service d’ambulance”)

“ambulance service manager” means a worker employed in an ambulance service who manages or supervises one or more paramedics and whose duties include providing direct support to paramedics dispatched by a communications officer on a request for ambulance services; (“chef de service d’ambulance”)

“band council” means a council of the band as defined in subsection 2 (1) of the Indian Act (Canada); (“conseil de bande”)

“communications officer” means a communications officer for the purposes of the Ambulance Act; (“agent de répartition”)

“correctional institution” means a correctional institution as defined in section 1 of the Ministry of
Correctional Services Act or a similar institution operated for the custody of inmates; ("établissement correctionnel")

“correctional services officer” means a worker who is directly involved in the care, health, discipline, safety and custody of an inmate confined to a correctional institution, but does not include a bailiff, probation officer or parole officer; ("agent des services correctionnels")

“emergency medical attendant” has the same meaning as in subsection 1 (1) of the Ambulance Act; ("ambulancier")

“firefighter” means,

(a) a firefighter as defined in subsection 1 (1) of the Fire Protection and Prevention Act, 1997, or

(b) a worker who,

   (i) is employed by a band council and assigned to undertake fire protection services on a reserve, or

   (ii) provides fire protection services on a reserve, either as a volunteer or for a nominal consideration, honorarium, training or activity allowance; ("pompier")

“fire investigator” means,

(a) a worker to whom the Fire Marshal appointed under subsection 8 (1) of the Fire Protection and Prevention Act, 1997 has delegated the duty to investigate the cause, origin and circumstances of a fire,

(b) a worker who was an inspector appointed under subsection 2 (4) of the Fire Marshals Act before that Act was repealed by the Fire Protection and Prevention Act, 1997, or

(c) a worker who is employed by a band council and assigned to investigate the cause, origin and circumstances of a fire on a reserve; ("enquêteur sur les incendies")

“full-time firefighter” means a worker who is a firefighter, is regularly employed on a salaried basis and is scheduled to work an average of 35 hours or more per week; ("pompier à temps plein")

“member of an emergency response team” means a person who provides first aid or medical assistance in an emergency, either as a volunteer or for a nominal consideration, honorarium or training or activity allowance, and who is dispatched by a communications officer to provide the assistance, but does not include an emergency medical attendant, a firefighter, a paramedic or a police officer; ("membre d’une équipe d’intervention d’urgence")

“operational manager” means a worker who directly supervises one or more correctional services officers; ("chef des opérations")

“paramedic” has the same meaning as in subsection 1 (1) of the Ambulance Act; ("auxiliaire médical")

“part-time firefighter” means a worker who is a firefighter and is not a volunteer firefighter or full-time firefighter; ("pompier à temps partiel")
“place of secure custody” has the same meaning as in subsection 3 (1) of the Child and Family Services Act; (“lieu de garde en milieu fermé”)

“place of secure temporary detention” has the same meaning as in subsection 3 (1) of the Child and Family Services Act; (“lieu de détention provisoire en milieu fermé”)

“police officer” means a chief of police, any other police officer or a First Nations Constable, but does not include a person who is appointed as a police officer under the Interprovincial Policing Act, 2009, a special constable, a municipal law enforcement officer or an auxiliary member of a police force; (“agent de police”)

“posttraumatic stress disorder” means, subject to subsection (15), posttraumatic stress disorder, as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), published by the American Psychiatric Association; (“état de stress post-traumatique”)

“psychiatrist” has the same meaning as in subsection 1 (1) of the Mental Health Act; (“psychiatre”)

“psychologist” means a member of the College of Psychologists of Ontario who holds a certificate of registration for a psychologist authorizing autonomous practice, or an individual who has a similar status in another province or territory of Canada; (“psychologue”)

“reserve” means a reserve as defined in subsection 2 (1) of the Indian Act (Canada); (“réserve”)

“worker in a correctional institution” means a correctional services officer, an operational manager, or a worker who is employed at a correctional institution to provide direct health care services by assessing, treating, monitoring, evaluating and administering medication to an inmate confined to a correctional institution; (“travailleur d’un établissement correctionnel”)

“worker in a place of secure custody or place of secure temporary detention” means a youth services worker, a youth services manager, or a worker who is employed at a place of secure custody or place of secure temporary detention to provide direct health care services by assessing, treating, monitoring, evaluating and administering medication to a young person in custody or detention at the place of secure custody or secure temporary detention; (“travailleur d’un lieu de garde en milieu fermé ou d’un lieu de détention provisoire en milieu fermé”)

“worker involved in dispatch” means a communications officer, a worker whose duties include the dispatch of firefighters and police officers, or a worker who receives emergency calls that initiate the dispatch of ambulance services, firefighters and police officers; (“travailleur s’occupant de répartition”)

“young person” has the same meaning as in subsection 3 (1) of the Child and Family Services Act; (“adolescent”)

“youth services manager” means a worker who is employed in a management position at a place of secure custody or secure temporary detention, and who directly supervises youth services workers, but does not include an administrator of a place of secure custody or secure temporary detention or a manager who only supervises educational, health-related or counselling services to young persons at the facility; (“chef des services aux jeunes”)

“youth services worker” means a worker who is employed at a place of secure custody or secure temporary detention, and who directly supervises young persons who are in custody or detention at the place of secure custody or secure temporary detention, including supervising daily routines
and programs, but does not include a worker who provides only educational, health-related or counselling services to young persons at the facility. (“travailleur des services aux jeunes”)

Application
(2) This section applies with respect to the following workers:

1. Full-time firefighters.
2. Part-time firefighters.
3. Volunteer firefighters.
4. Fire investigators.
5. Police officers.
6. Members of an emergency response team.
7. Paramedics.
10. Workers in a correctional institution.
11. Workers in a place of secure custody or place of secure temporary detention.
12. Workers involved in dispatch.

Entitlement to benefits
(3) Subject to subsection (7), a worker is entitled to benefits under the insurance plan for posttraumatic stress disorder arising out of and in the course of the worker's employment if,

(a) the worker is a worker listed in subsection (2) or was a listed worker for at least one day on or after transition day;

(b) the worker is or was diagnosed with posttraumatic stress disorder by a psychiatrist or psychologist; and

(c) for a worker who,

(i) is a listed worker at the time of filing a claim, the diagnosis is made on or after transition day,

(ii) ceases to be a listed worker on or after the day on which section 2 of the Supporting Ontario's First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force, the diagnosis is made on or after transition day but no later than 24 months after the day on which the worker ceases to be a listed worker, or

(iii) ceased to be a listed worker after transition day but before the day on which section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force, the diagnosis is made on or after transition day but no later than 24
months after the day on which section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force.

Interpretation
(4) In subsection (3), “transition day” means the day that is 24 months before the day on which section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force.

Same
(5) The worker is entitled to benefits under the insurance plan as if the posttraumatic stress disorder were a personal injury.

Presumption re: course of employment
(6) For the purposes of subsection (3), the posttraumatic stress disorder is presumed to have arisen out of and in the course of the worker’s employment, unless the contrary is shown.

No entitlement, employer’s decisions or actions
(7) A worker is not entitled to benefits under the insurance plan for posttraumatic stress disorder if it is shown that the worker’s posttraumatic stress disorder was caused by his or her employer’s decisions or actions relating to the worker’s employment, including a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the worker’s employment.

s. 13 entitlement
(8) Nothing in this section affects entitlement to benefits under section 13 for posttraumatic stress disorder that meets the requirements of that section.

No refiling of claims
(9) If a worker filed a claim in respect of posttraumatic stress disorder and the claim was denied by the Board or by the Appeals Tribunal, the worker may not refile the claim under this section.

Time limits
(10) The time limits in subsections 22 (1) and (2) do not apply in respect of a claim made under this section that is made with respect to posttraumatic stress disorder that was diagnosed before section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force.

Same
(11) A claim made under this section that is made with respect to posttraumatic stress disorder that was diagnosed before section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force must be filed within six months after the day on which section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force.

Pending claim
(12) If a worker listed in subsection (2) has filed a claim for entitlement for posttraumatic stress disorder and the claim is pending before the Board on the day section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force, the Board shall decide the claim in accordance with this section as though the requirement in clauses (3) (a) and (c) were satisfied.
Same

(13) For the purposes of subsection (12), a claim is pending on the day section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force if any of the following conditions are met:

1. The Board had not yet made a decision by that day.

2. There was, on that day, a right to file a notice of objection in respect of the claim under section 120 and a notice of objection is filed, on or after that day, in accordance with that section.

3. There was, on that day, a right of appeal in respect of the claim under section 125 and a notice of appeal is filed, on or after that day, in accordance with that section.

Pending appeal

(14) If a worker listed in subsection (2) has filed a claim for entitlement for posttraumatic stress disorder and the claim is pending before the Appeals Tribunal on the day section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force, the Appeals Tribunal shall refer the claim back to the Board and the Board shall decide the claim in accordance with this section as though the requirement in clauses (3) (a) and (c) were satisfied.

Transition, prior diagnosis

(15) For the purposes of pending claims and appeals, and of new claims made under this section within six months after the day section 2 of the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016 comes into force, posttraumatic stress disorder includes posttraumatic stress disorder, as described in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), published by the American Psychiatric Association.

Ministry of Labour Act

3. The Ministry of Labour Act is amended by adding the following section:

Powers of Minister as to obtaining information, posttraumatic stress disorder

9.1 (1) The Minister may direct employers who employ workers to whom section 14 of the Workplace Safety and Insurance Act, 1997 applies, to provide information to the Minister relating to the employer’s plans to prevent posttraumatic stress disorder arising out of and in the course of employment at the employer’s workplace.

Same, employer to provide information

(2) If the Minister directs an employer to provide information under subsection (1), the employer shall provide the information on or before the date specified by the Minister and in the form specified by the Minister.

Same, use of information collected

(3) The Minister may use information collected under subsection (1) for the following purposes:

1. To assess progress in the prevention of posttraumatic stress disorder in the relevant workplaces.

2. To prepare a report on posttraumatic stress disorder prevention plans in the relevant workplaces.

3. Such other purposes as the Minister considers appropriate.
Same, publication of information
(4) The Minister may publish information collected under subsection (1) and any report the Minister prepares using that information.

Commencement and Short Title
Commencement
4. This Act comes into force on the day it receives Royal Assent.

Short title
5. The short title of this Act is the Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016.

The Government of Ontario issued the following news release on April 2016.

**NEWS RELEASE**

**Ontario Passes Legislation to Support First Responders with PTSD**
*New Law will Allow Faster Access to Benefits and Timely Treatment*
April 5, 2016 11:55 A.M., Ministry of Labour

Today Ontario passed legislation that will create a presumption that post-traumatic stress disorder (PTSD) diagnosed in first responders is work-related.

Under the Supporting Ontario’s First Responders Act, the presumption allows for faster access to WSIB benefits, resources and timely treatment. Once a first responder is diagnosed with PTSD by either a psychiatrist or a psychologist, the claims process to be eligible for WSIB benefits will be expedited, without the need to prove a causal link between PTSD and a workplace event.

The presumption applies to police officers, firefighters, paramedics, certain workers in correctional institutions and secure youth justice facilities, dispatchers of police, firefighter and ambulance services, and emergency response teams.

The act also allows the Minister of Labour to request and publish PTSD prevention plans from employers of workers who are covered by the presumption.

This act is part of the province’s strategy to prevent or mitigate the risk of PTSD and provide first responders with faster access to treatment and the information they need to stay healthy.

**Quick Facts**
- Evidence shows that first responders are at least twice as likely compared to the general population to suffer from PTSD, due to the risk of frequent exposure to traumatic stressors.
- The legislation applies to more than 73,000 first responders in Ontario.
- On March 5, 2015, Ontario hosted the Summit on Work Related Traumatic Mental Stress. The province’s strategy builds on the dialogue and feedback from the Summit.
Background Information


Additional Resources

- Read the report from the Summit on Work-Related Traumatic Mental Stress < http://www.labour.gov.on.ca/english/hs/pdf/tms_summit.pdf >

Quotes

“We know PTSD is a serious and debilitating injury and that Ontario’s dedicated first responders are more than twice as likely to suffer from it. They put themselves in harm’s way each and every day to ensure our safety, and we need to be sure they have the resources and treatment they need to heal and return to work safely. Coupled with the prevention and resiliency training the province is putting in place, this Act is an important step forward in recognizing the importance of psychological health in the workplace, and it will provide first responders and their families with peace of mind.” - Kevin Flynn, Minister of Labour

“Ontario’s first responders are always there when we need them and it’s only right that we do the same for them. That is what our government’s comprehensive approach to PTSD is all about - preventing, diagnosing, and supporting the recovery of those who keep our communities safe every day. We have seen the devastating impact PTSD can have on those who keep us safe - such as our police officers, firefighters, dispatchers, and correctional officers and other frontline staff in our correctional institutions. The Supporting Ontario’s First Responders Act is part of a comprehensive approach to ensure our first responders have the proper supports in place to improve outcomes for themselves and the people they serve.” - Yasir Naqvi, Minister of Community Safety and Correctional Services

The Backgrounder to this news release describes briefly how the legislation works.

BACKGROUNDER


Supporting Ontario’s First Responders Act (Posttraumatic Stress Disorder), 2016

April 5, 2016 11:55 A.M., Ministry of Labour

The Supporting Ontario's First Responders Act (Posttraumatic Stress Disorder), 2016 amends the Workplace Safety and Insurance Act, 1997 (WSIA) and the Ministry of Labour Act. The act comes into force on Royal Assent.

Amendments to the Workplace Safety and Insurance Act, 1997

The act amends the WSIA to create a presumption that PTSD diagnosed in first responders is work-related, leading to faster access to WSIB benefits and proper treatment.

The proposed legislation covers:
• Police officers (including First Nations constables)
• Firefighters (part-time, full-time and volunteer firefighters, fire investigators and firefighters who volunteer or work for Band Councils)
• Paramedics, emergency medical attendants, and ambulance services managers whose duties include providing direct support for paramedics dispatched by a communications officer on a request for ambulance services
• Emergency response teams
• Correctional officers/youth services workers (including operational managers), and certain workers who provide direct health care services in correctional institutions and secure youth justice facilities
• Workers involved in the dispatch of police, firefighter and ambulance services

Workers covered by the presumptive legislation are entitled to benefits under the WSIA if they are diagnosed with PTSD by a psychiatrist or psychologist.

A diagnosis is required that is consistent with post-traumatic stress disorder as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), published by the American Psychiatric Association. Pending claims and appeals, and new claims made for PTSD within six months of the coming into force date, can be adjudicated in accordance with either a DSM-5 or DSM-IV (previous edition) PTSD diagnosis.

The presumption applies to new claims, as well as pending claims and claims in the process of being appealed. Previously denied claims that have exhausted the appeals process will not be reconsidered under the presumption.

Workers who were in an occupation covered by the presumption but left within the 24 month period before the legislation comes into force will be able to make a claim under the presumption if they have a PTSD diagnosis that was made within that 24 month timeframe, or if they receive a diagnosis within 24 months after the amendments come into force.

Workers in an occupation covered by the presumption who leave the occupation after the proposed legislation comes into force are able to make a claim under the presumption if they are diagnosed with PTSD within 24 months of leaving. However, if they were to be diagnosed after 24 months of leaving the occupation, they could file a claim for PTSD which would be adjudicated by the WSIB under the existing process.

Amendments to the Ministry of Labour Act

The Minister of Labour has the authority to request and publish PTSD prevention plans from employers of workers who are covered by the presumption.
Manitoba

In 2015, the Legislature of Manitoba passed the following legislation, which may be broader in scope than the legislation of some other provinces. Note in particular the wording of the preamble, which includes this statement: “WHEREAS the government recognizes the leadership of several professions and their labour representatives for advocating for legislation that identifies PTSD as an occupational disease for presumptive workers compensation coverage, including nurses, firefighters, first responders and other front line workers.”

LEGISLATION
http://web2.gov.mb.ca/laws/statutes/2015/c01315e.php

S.M. 2015, c. 13
Bill 35, 4th Session, 40th Legislature
The Workers Compensation Amendment Act (Presumption re Post-Traumatic Stress Disorder and Other Amendments)
(Assented to June 30, 2015)

WHEREAS workers in any occupation or workplace could face a traumatic event or series of events that can cause post-traumatic stress disorder ("PTSD");

AND WHEREAS the government recognizes the leadership of several professions and their labour representatives for advocating for legislation that identifies PTSD as an occupational disease for presumptive workers compensation coverage, including nurses, firefighters, first responders and other front line workers;

AND WHEREAS if the event or events that cause PTSD occur in the workplace, PTSD should be presumed to be an occupational disease to better support affected workers by simplifying the claims adjudication process for workers compensation benefits;

AND WHEREAS the government is committed to continuing to strengthen workplace health and safety and to protect workers and their families;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

C.C.S.M. c. W200 amended

1 The Workers Compensation Act is amended by this Act.

2 Subsection 1(1) is amended

(a) in the definition "occupational disease", by striking out "or" at the end of clause (a), adding "or" at the end of clause (b) and adding the following after clause (b):

(b.1) that trigger post-traumatic stress disorder;

(b) by adding the following definitions:
"Diagnostic and Statistical Manual of Mental Disorders" means the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; (« Manuel diagnostique et statistique des troubles mentaux »)

"post-traumatic stress disorder" means Posttraumatic Stress Disorder as that condition is described in the Diagnostic and Statistical Manual of Mental Disorders; (« trouble de stress post-traumatique »)

"psychologist" means an individual registered as a psychologist under The Psychologists Registration Act or under equivalent legislation in another jurisdiction in Canada; (« psychologue »)

3 The following is added after subsection 4(5.7):

Presumption re post-traumatic stress disorder

4(5.8) If a worker

(a) is exposed to a traumatic event or events of a type specified in the Diagnostic and Statistical Manual of Mental Disorders as a trigger for post-traumatic stress disorder; and

(b) is diagnosed with post-traumatic stress disorder by a physician or psychologist;

the post-traumatic stress disorder must be presumed to be an occupational disease the dominant cause of which is the employment, unless the contrary is proven.

Effective date of presumption re post-traumatic stress disorder

4(5.9) The presumption in subsection (5.8) applies to a worker who is diagnosed with post-traumatic stress disorder on or after the day that subsection comes into force.

4 Section 19.2 is amended by renumbering it as subsection 19.2(1) and adding the following as subsection 19.2(2):

Offence and administrative penalty

19.2(2) A person who contravenes this section commits an offence and is subject to an administrative penalty under subsection 109.7(1).

5 Subsection 60.11(1) is amended by striking out "March 31" and substituting "April 30".

6 Section 70 is amended by striking out "March 31" and substituting "April 30".

7 Section 71.1 is amended by striking out "March 31" and substituting "April 30".

8 Subsection 109.7(1) is amended by adding the following after clause (h):

(h.1) section 19.2 (requirement to post notices);

Coming into force

9 This Act comes into force on a day to be fixed by proclamation.
In 2015, the Government of Manitoba issued the following news release.

NEWS RELEASE

June 8, 2015
PROVINCE INTRODUCES GROUNDBREAKING FIRST-IN-CANADA PRESUMPTIVE POST-TRAUMATIC STRESS DISORDER LEGISLATION

Changes would make Coverage Accessible to All Workers under the Workers Compensation Act: Premier Selinger

The Manitoba government is introducing amendments to the Workers Compensation Act that would recognize post-traumatic stress disorder (PTSD) as a work-related occupational disease, Premier Greg Selinger announced today.

“This legislation would be unique in Canada and would truly support workers who experience a traumatic event or events in the workplace that lead to PTSD,” said Premier Selinger. “Under this new law, the Workers Compensation Board would presume their condition was caused by the job, making it much easier to access supports, treatment and compensation.”

The premier noted this proposed change was inspired by the work of Manitoba nurses, firefighters, first responders and the Manitoba Government Employees Union who led the charge with public campaigns, recognizing the affects workplace trauma can have on their members.

“We represent a broad cross section of workers in different occupations and as such we have learned that psychological injuries can happen to absolutely anyone regardless of what they do for a living,” said Michelle Gawronsky, president, Manitoba Government and General Employees’ Union. “This legislation would make it easier for workers to get the treatment they need more quickly.”

This new bill would extend coverage and benefits to all workers eligible under WCB who are diagnosed with PTSD by a medical professional. This would ensure timely access to compensation and support services, with the long-term goal of reducing the stigma attached to mental illness, the premier said.

“Firefighters and first responders face challenges every time they answer a call,” said Alex Forrest, president, United Firefighters of Winnipeg. “Presumptive legislation of this kind protects front-line workers like us and it’s been a pleasure working with the Manitoba government to make this happen.”

“Being on the front line when tragedies happen can leave you with experiences you’ll never forget,” said Sandi Mowat, president, Manitoba Nurses Union. “PTSD is a condition many of our members experience, due to the fact that nurses face cumulative exposure to primary, secondary and vicarious trauma over prolonged periods of time and this legislation would help those having to manage with this diagnoses.”

“PTSD is a real threat to working people. Any improvements in their access to support is welcome news,” said Kevin Rebeck, president, Manitoba Federation of Labour. “It comes as no surprise to me that Manitoba is the first jurisdiction to put this level of protection into legislation.”

Manitoba’s Five-Year Plan for Workplace Injury and Illness Prevention launched in 2013 includes mental health as one of its 10 action areas. The plan commits Manitoba to improving supports, resources and coverage for workers who routinely face traumatic events as part of their work in an effort to reduce work-related PTSD.
Manitoba’s Workers Compensation Board has provided an overview of the PTSD Presumption policy on its website.

OVERVIEW
https://www.wcb.mb.ca/ptsd-presumption-0

PTSD Presumption

As of January 1, 2016, if a worker in Manitoba is exposed to certain types of traumatic events and is diagnosed* with Post-Traumatic Stress Disorder (PTSD), the WCB can presume the PTSD is caused by the worker’s employment, unless the contrary is proven.

The intention of the presumption is to reduce stigma around mental illness and to make it simpler in some cases to establish a causal connection between PTSD and a worker’s employment.

Presumption Details

- The PTSD presumption is not limited to a specific occupation, recognizing that PTSD-triggering events can happen in any workplace.
- The presumption only applies to certain types of cases involving PTSD and does not apply to other work-related psychological injuries.
- If there is evidence that the PTSD was caused by something not related to the worker’s job, the presumption may be rebutted.
- It is important to note that work-related psychological injuries and PTSD have always been covered by the WCB. The WCB has always investigated PTSD claims and this will not change with the new presumption.

The implications of the legislation are discussed in a FAQ issued by the province’s Workers Compensation Board.

FAQ

Frequently Asked Questions: PTSD Presumption

Am I covered by the WCB if I have PTSD or another psychological injury?

Work-related psychological injuries, including PTSD, have always been and continue to be covered by the WCB.

What is the PTSD presumption?

As of January 1, 2016, if a worker in Manitoba is exposed to certain types of traumatic events and is diagnosed* with PTSD, the WCB can presume the PTSD is caused by the worker’s employment, unless the contrary is proven. This is called “presumptive coverage.”

The WCB will continue to adjudicate claims involving PTSD in the same manner as other psychological
injuries. The presumption only applies to certain types of cases involving PTSD and does not apply to other work-related psychological injuries. If there is evidence that the PTSD was caused by something unrelated to the worker’s job, the presumption may be rebutted.

Do I have to work in a certain occupation to be covered by the PTSD presumption?

PTSD presumptive coverage applies to all workers covered by workers compensation in Manitoba and recognizes that PTSD-triggering events can happen in any workplace.

What if I suffered a psychological injury many years ago? Am I still covered?

The legislation is tied to a current diagnosis of PTSD; therefore, if you are diagnosed with PTSD after January 1, 2016, the presumption may apply.

Does PTSD presumptive coverage guarantee that my WCB claim will be accepted?

The WCB will investigate each claim individually to determine if it is acceptable under the presumption or other sections of The Workers Compensation Act and WCB Policies. The presumptive coverage does not guarantee that your WCB claim will be accepted.

Does the PTSD presumption give workers special benefits?

The PTSD presumption relates to the cause of the injury. It has no impact on benefit levels.

What types of treatments does the WCB cover?

Some of the costs directly related to your psychological workplace injury that may be covered include:

- counselling services
- medication (including prescriptions)
- other healthcare costs related to your workplace injury.

Check with us before receiving treatment to make sure your expenses will be covered.

* The worker must be diagnosed by a physician or psychologist in accordance with the most recent Diagnostic and Statistical Manual published by the American Psychiatric Association.

Manitoba’s policy change followed the release of a report on public consultations in June 2015. A lengthy excerpt from this report is provided here.

REPORT
  https://www.wcb.mb.ca/sites/default/files/files/PTSD%20CONSULTATION%20REPORT%20June%202015.pdf

REPORT ON CONSULTATIONS:
Amending the Workers Compensation Act to Provide Presumptive Coverage for Post-Traumatic Stress Disorder, JUNE 2015, A Report Prepared by the Workers Compensation Board on behalf of the Government of Manitoba

BACKGROUND
Currently, under The Workers Compensation Act (the Act) an occupational disease includes stress that arises as "an acute reaction to a traumatic event." Claims accepted under this provision, which are usually described as "stress" or some variation on that term, are grouped under the broad category of "psychological injuries." They have arisen in a wide range of occupations, including emergency responders, social workers, nurses and other health care staff, retail workers, correctional officers, security guards and bus/truck drivers.

While claims for psychological injuries that meet the criteria under the Act are accepted, there is concern that several factors including the stigma associated with psychological conditions may inhibit workers with such injuries from filing claims and seeking the help they need. For example, the United Fire Fighters of Winnipeg (UFFW) has expressed this concern with respect to emergency responders who may be suffering from Post-Traumatic Stress Disorder (PTSD) as a result of their work.

PTSD is a specific psychological condition associated with exposure to traumatic events such as actual or threatened death, injury, or violence. The symptoms of PTSD can include intrusive memories or flashbacks related to the event, emotional and behavioural disturbances, and persistent avoidance of places and circumstances associated with the triggering event.

Recognizing the general importance of mental health as a workplace issue and the impact of work-related conditions such as PTSD, the Manitoba Government's 2014 "Speech from the Throne" promised "new legislation for fire fighters, paramedics and others suffering from Post-Traumatic Stress Disorder (PTSD)."

The Throne Speech commitment reinforced a pledge made in the Manitoba Government's Five Year Plan for Workplace Injury and Illness Prevention, released by the Minister of Labour and Immigration in 2013. The Prevention Plan promises to improve access to workers compensation benefits for "fire fighters, paramedics and others who routinely face high-trauma situations."

To guide its decision-making in this regard, the Manitoba Government asked the Workers Compensation Board (WCB) to gather input from stakeholders, the general public and experts in the mental-health and health-care fields. Specifically, input was sought on amending the Act to provide presumptive coverage for workers with PTSD. Presumptive coverage means that when a worker develops a specified condition and other conditions are met (such as being in a designated occupation or exposed to a particular event) it is assumed to be caused by their work unless otherwise shown.

A discussion paper providing background on the issue and a list of specific questions seeking feedback were provided directly to 55 stakeholders and experts, and was posted on the WCB web site for public input from February 23, 2015, to May 1, 2015.

The questions on which feedback was sought included:

1. Have you or your organization been involved in a worker's compensation claim based on PTSD? Was the claim satisfactorily resolved, and why?
2. Is there a need to amend the Act to improve the timeliness and consistency of adjudication in respect of claims based on PTSD?
3. Is a legislative presumption an appropriate method by which to improve the timeliness and consistency of adjudication in respect of claims based on PTSD?
4. What are the advantages and disadvantages of a presumption based on particular types of occupations?
5. If the Act were amended to provide a presumption in respect of PTSD for certain occupations, what occupations should be included?
6. What are the advantages and disadvantages of a presumption based on the triggering events for, and a diagnosis of, PTSD?
7. Should a legislative presumption be made retroactive and for what period of time?
8. Do you have any other comments or suggestions on the subject of PTSD in the context of the workers compensation system in Manitoba?

A total of 29 submissions were received: 11 from labour organizations and workers; 15 from employer organizations and employers; and 3 from health-care and mental-health experts.

INPUT FROM LABOUR ORGANIZATIONS AND WORKERS

Overall, labour organizations and workers expressed support for presumptive legislation for PTSD.

Common reasons expressed for this position were that a presumption would reduce the reluctance on the part of affected workers to file WCB claims because of the associated stigma, ensure they get quicker access to the supports and services they need, and ease the adjudication process for workers already negatively affected by their condition.

With respect to the scope of coverage, there was general agreement among labour organizations and workers that a presumption should not be confined to workers in specific occupations. These submissions pointed out that workers can develop PTSD from a wide range of situations in many different types of jobs. In addition to first responders, examples cited of workers who may experience events that cause PTSD included corrections officers, nurses and those working with high risk youth/families or vulnerable persons.

One submission advocated that the presumption cover only first responders.

Some of these submissions also expressed concern about the concept of basing the presumption on triggering events. There were concerns about how triggering events would be defined and whether it might exclude situations that did not clearly meet those parameters.

Most of those submissions that commented on the matter were in favour of having the presumption apply retroactively regardless of injury date.

Other observations and suggestions included:

- Occupational burnout and secondary traumatic stress should be made compensable conditions as they have been shown to be related to PTSD.

- All psychological conditions related to a specific traumatic workplace event, such as anxiety and depression, should be included in the presumption to facilitate access to treatment and recovery.

- The time limit on when a WCB claim can be filed following an injury should be extended to at least 24 months, with the authority to waive the time limit on a case-by-case basis.

- WCB policy on the adjudication of psychological injuries should be reviewed in light of a recent decision of the Workplace Safety and Insurance Appeals Tribunal of Ontario that restrictions regarding compensation for chronic stress claims are in violation of the Charter.

INPUT FROM EMPLOYER ORGANIZATIONS AND EMPLOYERS

Employer organizations and employers were generally opposed to a PTSD presumption. The most common rationale for this view was that the Act already provides for adjudication and compensation for PTSD.

Employer organizations and employers expressed many concerns about issues related to diagnosis and...
how this might affect how claims are accepted under a presumption. Some pointed out that PTSD is a multi-faceted condition not given to easy diagnosis, that people react to traumatic events very differently, and that PTSD can result from a combination of work and non-work events. Others pointed out that there are limited resources to conduct proper, timely diagnosis and that general practitioners are not qualified to do so.

Others suggested that a presumption would simply result in the WCB placing less emphasis on proper investigation and adjudication of claims, resulting in negative impacts on employers. Some observed that a presumption would absolve the WCB of its responsibility to investigate and properly adjudicate these claims.

Many of these submissions suggested ways to improve services for workers with PTSD other than through a presumption. These included ensuring the WCB has qualified mental-health specialists to support proper diagnosis of these injuries, and a specialized unit with qualified staff to focus on adjudicating and managing psychological injury claims.

Because of their general opposition to a presumption, employer organizations and employers did not comment extensively on scope of coverage. One submission suggested that if a presumption is enacted, it should be limited to first responders, while another said it should be limited to first responders, health-care workers, emergency dispatchers, and corrections officers.

Other observations and suggestions from employer organizations and employers included:
- If a presumption is enacted, it should not be retroactive.
- Any claims accepted under a presumption should qualify for 100% cost relief for the employer (meaning that the claim costs would be allocated to the general pool of WCB-covered employers and not affect the individual employer's assessment rate).
- PTSD can only be diagnosed after a month, so it is unclear how a presumption would speed adjudication.
- Wait times for mental-health services would mean that a presumption would not speed access to treatment.
- Education is a better way than a presumption of countering the stigma of filing a psychological injury claim.
- A presumption will add significant costs to the WCB system.
- A presumption would not be in the mainstream of Canadian workers compensation programs.
- The process is flawed, as indications from government are that a decision to legislate a presumption has already been made.

INPUT FROM HEALTH-CARE/MENTAL-HEALTH EXPERTS

Some of the key observations and suggestions made by health-care and mental-health experts include:
- A presumption could help raise awareness and reduce the stigma of mental-health issues.
- Early access to resources and treatment is crucial for those with mental-health conditions.
- WCB staff should be trained in the effects of trauma.
- First responders should be specifically included under a presumption, but that does not mean others could not be as well.
- Lawyers, corrections officers, and probation/parole officers could also be included.
- Any presumption should be retroactive.

CONCLUSION

Contributors expressed divergent views on the basic question of whether a presumption is the best way to ensure that workers with PTSD get the services and supports they need. Those from the labour community were generally in favour of a presumption, while those from the employer community were
generally opposed.

Among those who supported the concept of a presumption, there were different views on whether it should be based on occupation or on diagnosis and triggering events. The majority of those who support a presumption would prefer it not be confined to particular occupations. Some of those who oppose a presumption suggested that, if it is introduced, it should be confined to a relatively small number of occupations, namely first responders.

There was general agreement expressed on a number of important areas. There is a widely recognized need to improve services and supports for workers with PTSD and other psychological injuries. This includes the need to enhance services and capacity at the WCB and throughout the health-care system. There was also general agreement on the need to counter the stigma associated with PTSD and other psychological conditions so that workers are less reluctant to seek help from the WCB and elsewhere.
Saskatchewan

In 2016, the Legislature of Saskatchewan passed a Bill to expand Workers’ Compensation coverage to workers experiencing psychological injuries. The Bill read as follows. Note, in particular, subsection 28.1(2), which reads: “Unless the contrary is proven, if a worker or former worker is diagnosed with a psychological injury by a psychiatrist or psychologist, that injury is presumed to be an injury that arose out of and in the course of the worker’s employment.”

LEGISLATION

BILL No. 39, An Act to amend The Workers’ Compensation Act, 2013

(Assented to ) HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title
1 This Act may be cited as The Workers’ Compensation Amendment Act, 2016.

SS 2013, c W-17.11 amended
2 The Workers’ Compensation Act, 2013 is amended in the manner set forth in this Act.

Section 2 amended
3 Subsection 2(1) is amended:
   (a) in clause (s) by striking out “The Trade Union Act” and substituting “Part VI of The Saskatchewan Employment Act”;
   (b) by repealing clauses (bb) and (cc) and substituting the following:
      “(bb) ‘Occupational Health and Safety Division’ means:
         (i) the director of occupational health and safety appointed pursuant to section 3-3 of The Saskatchewan Employment Act; and
         (ii) the employees of the ministry presided over by the member of the Executive Council responsible for the administration of The Saskatchewan Employment Act to whom the director mentioned in subclause (i) has delegated any powers or responsibilities;
      “(cc) ‘occupational health and safety program’ means an occupational health and safety program carried out pursuant to The Saskatchewan Employment Act”;
   (c) by adding the following clauses after clause (ff):
      “(ff.1) ‘psychiatrist’ means a psychiatrist as defined in The Mental Health Services Act;
      “(ff.2) ‘psychologist’ means:
         (i) an individual who is a member of the Saskatchewan College of Psychologists and who holds a licence to practise issued pursuant to The Psychologists Act, 1997; or
         (ii) an individual who is practising as a psychologist outside Saskatchewan and who is recognized as a psychologist by the licensing body of the jurisdiction in which the person practises”;
   (d) in the portion of clause (ii) preceding subclause (i) by adding “, unless otherwise specified,” after “means”.

Page 41 of 52
New section 28.1

4 The following section is added after section 28:

“Presumption of psychological injury

28.1(1) In this section:

(a) ‘psychological injury’ means a psychological injury, including post-traumatic stress disorder, as described in the edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association that is prescribed in the regulations;

(b) ‘worker’ means a person who works and:
   (i) is exposed to a traumatic event; or
   (ii) is in an occupation that is prescribed in the regulations.

(2) Unless the contrary is proven, if a worker or former worker is diagnosed with a psychological injury by a psychiatrist or psychologist, that injury is presumed to be an injury that arose out of and in the course of the worker’s employment”.

Section 187 amended

5 The following clause is added after clause 187(1)(e):

“(e.1) for the purposes of section 28.1:
   (i) prescribing occupations; and
   (ii) prescribing an edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association”.

Coming into force

6 This Act comes into force on proclamation.

The following news release was issued to describe the proposed changes.

Note, in particular, this sentence: “The amendment establishes a rebuttable presumption for all forms of psychological injuries, which means that it is presumed that a worker has a work-related injury and would not have to prove it occurred in the workplace.”

NEWS RELEASE

Amendment Supports Workers Experiencing Psychological Injuries

Released on October 25, 2016

A change to The Workers’ Compensation Act, 2013 was introduced today which will expand workers’ compensation coverage to workers experiencing psychological injuries.

The amendment establishes a rebuttable presumption for all forms of psychological injuries, which means that it is presumed that a worker has a work-related injury and would not have to prove it occurred in the
“We are committed to protecting our workers, especially those who protect us,” Labour Relations and Workplace Safety Minister Don Morgan said. “Many of the people experiencing psychological injuries such as Post-Traumatic Stress Disorder are our first responders who are exposed to traumatic situations because of their jobs.”

To qualify for coverage a worker will need to provide a diagnosis from a psychologist or psychiatrist. Until today, workers were required to provide additional proof that their psychological injury was work-related when filing their Worker’s Compensation Board (WCB) claim to be eligible for compensation.

“We know the stigma attached to psychological injuries and illnesses often prevents people from getting help,” Morgan said. “By reducing barriers, our hope is that more people feel confident seeking support, including applying for benefits from the WCB.”

While other provinces have established a rebuttable presumption for Post-Traumatic Stress Disorder (PTSD), Saskatchewan is the first province to enact legislation that covers other forms of psychological injury that workers could experience as a result of being exposed to traumatic events or situations at work.

The government intends to pass the bill as soon as possible.

The following news release was issued when the legislation was passed.

Note, as well, this sentence: “The amendment establishes a rebuttable presumption for all forms of psychological injuries, which means that if a worker has experienced a traumatic event or a number of events in the course of their work and has been diagnosed as having a psychological injury, it is presumed that the injury is the result of their employment.”

NEWS RELEASE

Workers’ Compensation Act Amended to Support Workers with Psychological Injuries

Released on December 20, 2016

Bill 39, an amendment to The Workers’ Compensation Act, 2013, becomes law on December 20, 2016.

The amendment establishes a rebuttable presumption for all forms of psychological injuries, which means that if a worker has experienced a traumatic event or a number of events in the course of their work and has been diagnosed as having a psychological injury, it is presumed that the injury is the result of their employment.

“I would like to thank members of the opposition for supporting the bill and working with us to pass it so quickly,” Labour Relations and Workplace Safety Minister Don Morgan said. “We are also grateful to those we spoke with who shared their stories with us. Their experiences reinforced how important it is to support those who are dealing with the personal consequences of trauma.”

A private members’ bill to establish a presumption for work-related post-traumatic stress disorder (PTSD)
was introduced in the spring. Bill 39 extends the presumption to all forms of psychological injury caused by workplace trauma. The amendment applies to all workers eligible for Workers’ Compensation Board coverage.

To apply for Workers’ Compensation, applicants will need to provide a diagnosis from a psychiatrist or psychologist that includes confirmation the injury occurred as a result of being exposed to a traumatic event at work. More information can be found on the Workers’ Compensation Board website at www.wcbsask.com.

Workers with PTSD or similar injuries have been eligible to apply for Workers’ Compensation Board coverage under a policy that has been in place since 1992.

The Saskatchewan Workers’ Compensation Board describes the changes as follows.

Note, in particular, the following: “Bill 39 establishes a rebuttable presumption for psychological injuries for workers exposed to traumatic events during the course of their employment. Saskatchewan will be the first jurisdiction to establish a presumption for all forms of psychological injury incurred through work, not just post-traumatic stress disorder (PTSD) and to apply this to all workers.”

Also note: “Were people with psychological injuries eligible for WCB coverage before? Yes. The existing policy covered the majority of these injury claims. Workers who have been diagnosed with a psychological injury as a result of a traumatic event or cumulative events have been able to apply for WCB benefits based on the psychological injury policy that has been in place since 1992. Up until now, they have been required to provide evidence that the injury is work-related to be eligible for benefits. This amendment gives the worker the benefit of the doubt, but these claims will be adjudicated with the same process as all claims.”

OVERVIEW

Amendments to the Workers’ Compensation Act to recognize psychological injury

How can people with psychological injuries such as PTSD apply for Workers’ Compensation?

If a person has incurred a psychological injury through a traumatic event or series of traumatic events at work, the injured worker should submit a Worker’s Initial Report of Injury (W1) with the WCB as soon as possible.

Workers with psychological injuries such as PTSD should take the following steps:

- Get medical attention if you need it. You should receive appropriate treatment from a qualified health care professional.
- Report the incident to your employer immediately.
- Have your psychologist or psychiatrist report to the WCB. Psychological injuries must be
diagnosed by a psychologist or psychiatrist based on the standards established in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5).

- They should identify any restrictions resulting from your injury and give them to you in writing. You need to let your employer know this information as soon as possible.
- Complete and submit the Worker’s Initial Report of Injury (W1) as soon as possible.
- Participate with your employer, care provider and the WCB in setting up a personalized return-to-work plan. The plan usually includes treatment, employment services and suitable work duties.

What are the main points of the changes?

Bill 39 establishes a rebuttable presumption for psychological injuries for workers exposed to traumatic events during the course of their employment. Saskatchewan will be the first jurisdiction to establish a presumption for all forms of psychological injury incurred through work, not just post-traumatic stress disorder (PTSD) and to apply this to all workers.

What is a rebuttable presumption?

It means giving the benefit of the doubt to the worker when a claim for compensation has been made. This amendment establishes a rebuttable presumption for workers exposed to traumatic situations in the course of their employment. Under Bill 39 it is presumed that a worker has sustained the injury as a result of their work unless there is evidence to the contrary.

Who could qualify for WCB coverage for a psychological injury?

All workers who are covered by The Workers’ Compensation Act, 2013 are eligible for compensation if they are exposed to a traumatic event as part of or in the course of their employment.

How do people show they are experiencing a psychological injury in order to submit a WCB claim?

They must be diagnosed with a psychological injury by a psychiatrist or a psychologist based on the standards established in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5).

In order to be a work-related injury eligible for compensation, the psychological injury must have occurred due to exposure to cumulative events or a traumatic incident in the course of work-related duties.

For further information, please contact the Workers’ Compensation Board.

Is Bill 39 and the change in legislation only effective for injuries that occur going forward or is it retroactive?

The Bill is retroactive and will cover injuries that occurred prior to the date of the Bill’s Proclamation.

Were people with psychological injuries eligible for WCB coverage before?

Yes. The existing policy covered the majority of these injury claims. Workers who have been diagnosed with a psychological injury as a result of a traumatic event or cumulative events have been able to apply for WCB benefits based on the psychological injury policy that has been in place since 1992. Up until now, they have been required to provide evidence that the injury is work-related to be eligible for benefits.

This amendment gives the worker the benefit of the doubt, but these claims will be adjudicated with the same process as all claims. The WCB will still need to determine that the predominant cause of the injury...
was through work or a work-related incident. In addition, the injury must be diagnosed by a psychologist or psychiatrist based on the standards established in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5).

How can someone appeal if they were previously denied coverage?

They do not have to appeal. If an injured worker's claim for psychological injury was denied previously, they can ask their Saskatchewan WCB CES or Case Manager for reconsideration under the new legislation. The WCB CES and Case Manager will require details of how the injury occurred at work and a diagnosis from a psychologist or psychiatrist based on the standards established in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5).

The majority of these eligible claims would have been accepted under the old policy.

How can people appeal if they are denied coverage going forward?

Anyone can appeal their WCB claim. If someone requires assistance in making an appeal, they can contact the Office of the Workers’ Advocate (OWA), which provides free and independent services to injured workers and their families when dealing with the WCB.

Why did you decide to change the Act?

We have heard from groups such as Post Traumatic Stress Disorder Saskatoon and the Saskatchewan Professional Firefighters Association about the importance of amending The Workers’ Compensation Act to better meet the needs of those making a claim for psychological injuries.

All too often there is a stigma attached to mental health issues, making it more difficult for those who are experiencing them to come forward and seek help. We hope to ensure those with psychological injuries stemming from their jobs will feel comfortable and confident seeking support, including filing a claim with the WCB.

Is this going to increase workers’ compensation premiums?

Employer premium rates are not expected to increase. It is anticipated that there will be an increase in the number of claims for compensation. It is not expected that there will be a significant increase in cost as the majority of these claims would have been accepted under the existing policy.

Jan 17, 2017
Alberta

In 2012, the Government of Alberta introduced legislation to provide presumptive Workers' Compensation coverage for Alberta's First Responders. An excerpt from the 2012 legislation reads as follows.

LEGISLATION

(2) If a worker who is or has been an emergency medical technician, firefighter, peace officer or police officer is diagnosed with post-traumatic stress disorder by a physician or psychologist, the post-traumatic stress disorder shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker's employment in response to a traumatic event or a series of traumatic events to which the worker was exposed in carrying out the worker's duties as an emergency medical technician, firefighter, peace officer or police officer.

The government issued the following news release to explain the 2012 legislation.

NEWS RELEASE
https://www.alberta.ca/release.cfm?xID=3236580990CF1-C6E8-FA7D-8356F8A75543B5F7

May 24, 2012

Bill 1 to legislate workers' compensation coverage for Alberta's First Responders

Post-Traumatic Stress Disorder will be presumed to be work-related.

The Alberta government has introduced new legislation to streamline the process for Alberta's first responders to receive Workers' Compensation Board coverage for Post-Traumatic Stress Disorder (PTSD).

"Bill 1 reaffirms our commitment to our province's first responders recognizing their crucial role in Albertans' safety and health and dealing with some of life's most traumatic experiences. These brave men and women put their lives on the line in our greatest time of need, and we need to respond to them when they need help." - Premier Alison Redford

Changes proposed under Bill 1: The Workers' Compensation Amendment Act will allow firefighters, police officers, sheriffs and paramedics to receive compensation for PTSD without having to prove their condition is work-related. Alberta will be the first province in Canada to provide such coverage.

“There is increased awareness of the affects [sic] of PTSD over the last decade. This proposed legislation recognizes first responders who face traumatic experiences. We are proud to support them and bring forward legislation that leads the country.” - Dave Hancock, Minister of Human Services

PTSD is an intense emotional and psychological response to a recent or past traumatic event that is life-threatening, very disturbing or stressful. Symptoms include reliving the event through nightmares or flashbacks, emotional numbness, avoiding reminders of the event, and being on edge or easily startled.
Background: Bill One Questions and Answers

What professions are considered ‘first responders’?
First responders are typically considered to be paramedics, firefighters and police officers. This proposed legislation also includes sheriffs.

How many first responders will be affected by this proposed legislation?
More than 27,000 first responders will be provided with presumptive coverage for PTSD. This includes approximately 3,800 municipal police, 13,500 firefighters (both full and part time), 9,200 paramedics, and 700 sheriffs currently employed in Alberta. This legislation also extends to those previously in these roles.

Does this coverage extend to members of the RCMP or armed forces?
No, the RCMP and armed forces have their own coverage, which falls under federal jurisdiction.

Government recently extended WCB cancer coverage to part-time firefighters. Are they included in this proposed PTSD coverage?
Yes, the definition of first responder includes the same group of firefighters.

What is the cost of this proposed legislation and who will pay for it?
Any costs associated with any work-related claim are paid by the WCB. Employers pay WCB premiums. As such, employers indirectly pay the cost of all WCB claims.

Do we expect WCB employer premiums to increase as a result of this proposed revision to legislation?
As PTSD is already covered under WCB policy, it is not anticipated that the number of claims received will change. It is also not anticipated that any additional successful claims will have any significant overall impact in employer premiums.

Why is this change to legislation being considered now?
The reality of PTSD has emerged over the last decade. Like physical ailments and injuries experienced in the workplace, PTSD causes real hardship to those suffering, and their families.

What coverage is in place for other professions?
Those not covered under the proposed legislation can still submit a claim for PTSD. The difference is that they would have to prove their claim. In other words, if a first responder is diagnosed with PTSD, it will be presumed to be work related, unless proven otherwise.

In 2017, Alberta announced its intention to extend presumptive PTSD coverage to other occupations. Its legislation included the following provisions.

Note in particular sections 24.2(2) and (3), which read: “(2) If a first responder or any other class of worker prescribed by the regulations is or has been diagnosed with post-traumatic stress disorder by a physician or psychologist, the post-traumatic stress disorder shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment. (3) If a worker (a) is or has been exposed to a traumatic event or events during the course of the worker’s employment, and (b) is or has been diagnosed with a psychological injury by a physician or psychologist, the psychological injury shall be presumed, unless the
contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment.”

---

**LEGISLATION**


2017 Bill 30, Third Session, 29th Legislature, 66 Elizabeth II THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 30, AN ACT TO PROTECT THE HEALTH AND WELL-BEING OF WORKING ALBERTANS**

[excerpts]

<table>
<thead>
<tr>
<th>Section 24.1 Presently Reads</th>
<th>16(1) Section 24.1 is Amended</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>24.1</strong>(1) In this section,</td>
<td>(a) in subsection (1) by adding the following after clause (b):</td>
</tr>
<tr>
<td>(a) “full-time firefighter” means an employee,</td>
<td>(b.1) “paramedic” means a paramedic as defined in section 24.2;</td>
</tr>
<tr>
<td>including an officer and a technician, employed by</td>
<td></td>
</tr>
<tr>
<td>a municipality or Metis settlement and assigned</td>
<td>(b) by repealing subsection (7) and substituting the following:</td>
</tr>
<tr>
<td>exclusively to fire protection and fire prevention</td>
<td>(7) If a worker who is a full-time firefighter or part-time firefighter suffers a myocardial infarction within 24 hours after being dispatched or attending at an emergency response, whichever is later, the myocardial infarction shall be presumed to have arisen out of and occurred during the course of employment as a full-time firefighter or part-time firefighter unless the contrary is proven.</td>
</tr>
<tr>
<td>duties notwithstanding that those duties may include the performance of ambulance or rescue services;</td>
<td>(7.1) If a worker who is a paramedic suffers a myocardial infarction within 24 hours after being dispatched or attending at an emergency response, whichever is later, the myocardial infarction shall be presumed to have arisen out of and occurred during the course of employment as a paramedic unless the contrary is proven.</td>
</tr>
<tr>
<td>(b) “municipality” means a municipality as defined in the Municipal Government Act;</td>
<td></td>
</tr>
<tr>
<td>(c) “part-time firefighter” means a casual,</td>
<td></td>
</tr>
<tr>
<td>volunteer or part-time member of a fire protection</td>
<td></td>
</tr>
<tr>
<td>service of a municipality or Metis settlement.</td>
<td></td>
</tr>
<tr>
<td><strong>(7)</strong> If a worker who is a full-time firefighter or part-time firefighter suffers a myocardial infarction within 24 hours after attendance at an emergency response, the myocardial infarction shall be presumed to have arisen out of and occurred during the course of employment as a full-time firefighter or part-time firefighter unless the contrary is proven.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 24.2 Presently Reads</th>
<th>17(1) Section 24.2 is Repealed and the Following is Substituted:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>24.2</strong>(1) In this section,</td>
<td>PTSD presumptions</td>
</tr>
<tr>
<td>(a) “emergency medical technician” means an individual who is registered as a member of the designated health discipline of Emergency Medical Technicians under the Health Disciplines Act in the Emergency Medical Responder, Emergency Medical Technician-Ambulance or Emergency Medical</td>
<td>24.2(1) In this section,</td>
</tr>
<tr>
<td></td>
<td>(a) “firefighter” means a full-time firefighter or part-time firefighter as defined in section 24.1;</td>
</tr>
<tr>
<td></td>
<td>(b) “first responder” means a firefighter, paramedic, peace office or police officer;</td>
</tr>
</tbody>
</table>
Technologist-Paramedic area of practice;
(b) “firefighter” means a full-time firefighter or part-time firefighter as defined in section 24.1;
(c) “peace officer” means an individual appointed as a peace officer under section 7 of the Peace Officer Act who is authorized by that appointment to use the title "Sheriff";
(d) “physician” means an individual who is a regulated member of the College of Physicians and Surgeons of Alberta under the Health Professions Act authorized to use the title "physician" who holds a practice permit issued under that Act;
(e) “psychologist” means an individual who is a regulated member of the College of Physicians and Surgeons of Alberta under the Health Professions Act authorized to use the title "physician" who holds a practice permit issued under that Act;
(f) “police officer” means an individual appointed as a police officer under section 5 or 36 of the Police Act or as a chief of police under section 36 of the Police Act;
(g) “post-traumatic stress disorder” means Posttraumatic Stress Disorder as that condition is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
(h) “psychological injury” means any psychological disorder or condition that meets the diagnostic criteria for a disease or condition that is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
(i) “psychologist” means an individual who is a regulated member of the College of Alberta Psychologists and who holds a practice permit issued under the Health Professions Act or an individual who has a similar status under similar legislation in a jurisdiction outside Alberta.

(2) If a worker who is or has been an emergency medical technician, firefighter, peace officer or police officer is or has been diagnosed with post-traumatic stress disorder by a physician or psychologist, the post-traumatic stress disorder shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment.

(3) If a worker
(a) is or has been exposed to a traumatic event or events during the course of the worker’s employment, and
(b) is or has been diagnosed with a psychological
injury by a physician or psychologist, the psychological injury shall be presumed, unless the contrary is proven, to be an injury that arose out of and occurred during the course of the worker’s employment.

(4) The Board shall
(a) assist a worker who is diagnosed with a psychological injury in obtaining, or
(b) provide to the worker treatment by culturally competent clinicians who are familiar with the research concerning treatment for psychological injuries.
(2) Subsection (1) applies with respect to accidents that occur on or after April 1, 2018.

Alberta’s 2017 legislation was addressed in the following news article.

NEWS ARTICLE

NDP plans to include correctional officers, dispatchers as first responders to expand PTSD benefits
by Clare Clancy, Edmonton Journal
Published on: November 28, 2017 | Last Updated: November 28, 2017 4:39 PM MST

The NDP is recognizing correctional officers and emergency medical dispatchers as among the jobs most at risk for post-traumatic stress disorder (PTSD). The move comes on the heels of new labour legislation that aims to give workers better access to psychological support.

But the Alberta Union of Provincial Employees (AUPE) suggested presumptive PTSD coverage should extend to social workers and possibly other jobs as well.

“It can be any occupation, but there are key ones where it’s way more prevalent,” president Guy Smith said Tuesday. He pointed to bank tellers who have been the victims of armed robberies as an example.

He said the gap is concerning for the union, which represents more than 93,000 members.

“Overall, the bill does recognize it’s an issue in the workforce,” he added.

Amendments to the Workers’ Compensation Act introduced Monday included broadening mental health support — workers in any job can seek benefits through the board for a psychological injury if they experience trauma on the job and receive a diagnosis from a physician or psychologist.

First responders, though, remain in a separate category and are given presumptive coverage for PTSD, meaning that the condition is assumed to have been the result of workplace trauma. The category includes firefighters, paramedics, peace officers and police officers after legislation passed in 2012.

Labour Minister Christina Gray said correctional officers and emergency medical dispatchers will be added
to that list in the coming months.

“We’ve given ourselves the ability to do that through regulation,” she said.

“We know traumatic events happen daily for police officers, for firefighters,” Gray added. “That’s the difference ... another worker will need to identify ‘this is the event, or events (that triggered my PTSD).’”

If passed, Bill 30, An Act to Protect the Health and Well-being of Working Albertans, will overhaul provincial occupational health and safety rules, as well as the workers’ compensation system.

Gray said presumptive coverage could be expanded to more jobs in the future.

“It’s a very live conversation around presumptive PTSD coverage, so I certainly hope that social workers understand that they will now have enhanced access through the coverage that we’ve given (for) psychological injuries (in) all occupations.”

Smith said overall, the bill will give workers better access to mental health support.

“There have been a number of claims accepted by WCB on the basis on PTSD diagnosis, but it was very challenging,” he said.

“We’re seeing more and more psychological injuries at work sites ... particularly at social services, correctional centres and even some of the courts and obviously ... front-line services in health institutions.”