

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. \_\_\_\_\_

Workers' compensation-mental injury-2.

Sponsored by: Joint Labor, Health and Social Services  
Interim Committee

A BILL

for

1 AN ACT relating to workers' compensation; amending coverage  
2 requirements and benefits for mental injuries as specified;  
3 and providing for an effective date.

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

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

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9 **27-14-409. Mental injury coverage.**

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11 (a) Coverage for mental injuries shall be provided  
12 under this act, with or without a physical injury, as  
13 provided in this section.

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

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5 (i) Is established by clear and convincing  
6 evidence;

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8 (ii) Includes a diagnosis by a licensed  
9 psychiatrist, a licensed clinical psychologist or a  
10 licensed clinical social worker acting within the scope of  
11 the psychiatrist's, psychologist's or clinical social  
12 worker's professional license, using criteria established  
13 in the most recent edition of the diagnostic and  
14 statistical manual of mental disorders published by the  
15 American Psychiatric Association. The diagnosis shall  
16 include the psychiatrist's, psychologist's or clinical  
17 social worker's exclusion of genetic or other possible  
18 causes for the mental injury that are not employment  
19 related;

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21 (iii) Is the result of a single extraordinary  
22 event, with sudden onset following the event;

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1           (iv) If a combination of employment related and  
2 nonemployment related events contribute to the injury, is  
3 caused primarily by the work related event.

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5           (c) A mental injury is not compensable if it is the  
6 result of disciplinary action, work evaluation, job  
7 transfer, layoff, demotion, termination or any similar  
8 action taken in good faith by the employer.

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10          (d) Compensable medication for a mental injury shall  
11 be limited to those medications approved by the United  
12 States food and drug administration for the diagnosed  
13 injury.

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15          (e) An aggravation of a preexisting mental condition  
16 shall be compensable only if the aggravation is a material  
17 aggravation and the relationship of the aggravation to the  
18 claimant's employment is established by clear and  
19 convincing evidence.

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21          (f) The filing of an injury report for a mental  
22 injury not caused by a physical injury shall include a

1 disclosure of any diagnosis or treatment received by the  
2 claimant for the same or a related condition.

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4 (g) If an employee's report of injury for a mental  
5 injury is not filed as required by W.S. 27-14-502(a), the  
6 presumption that the claim shall be denied shall not be  
7 rebuttable if more than six (6) months elapse between the  
8 date of injury and the filing of the employee's injury  
9 report.

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11 (h) The division, following consultation with the  
12 state pharmacist and a committee appointed by the chairman  
13 of the medical commission, may by rule and regulation adopt  
14 a list of preferred medications for mental injuries based  
15 on clinical efficacy and safety as well as cost to the  
16 workers' compensation account.

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

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21 **27-14-102. Definitions.**

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23 (a) As used in this act:

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(xi) "Injury" means any harmful change in the human organism other than normal aging and includes damage to or loss of any artificial replacement and death, arising out of and in the course of employment while at work in or about the premises occupied, used or controlled by the employer and incurred while at work in places where the employer's business requires an employee's presence and which subjects the employee to extrahazardous duties incident to the business. "Injury" does not include:

(J) Any mental injury ~~unless it is caused by a compensable physical injury, it occurs subsequent to or simultaneously with, the physical injury and it is established by clear and convincing evidence, which shall include a diagnosis by a licensed psychiatrist or licensed clinical psychologist meeting criteria established in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American Psychiatric Association. In no event shall benefits for a compensable mental injury be paid for more than six (6) months after an injured employee's physical injury has~~

1 ~~healed to the point that it is not reasonably expected to~~  
2 ~~substantially improve~~ except as provided in W.S. 27-14-409.

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4 **Section 3.** This act is effective July 1, 2009.

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(END)