

**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.

4

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

6

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 is  
4 established by clear and convincing evidence and includes a  
5 diagnosis by a licensed psychiatrist, a licensed clinical  
6 psychologist or a licensed clinical social worker meeting  
7 criteria established in the most recent edition of the  
8 diagnostic and statistical manual of mental disorders  
9 published by the American Psychiatric Association. The  
10 diagnosis shall include the psychiatrist's or  
11 psychologist's exclusion of genetic or other possible  
12 causes for the mental injury. A mental injury is not  
13 covered if it is the result of disciplinary action, work  
14 evaluation, job transfer, layoff, demotion, termination or  
15 any similar action taken in good faith by the employer.

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

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22 (d) An aggravation of a preexisting mental condition  
23 shall be compensable only if the aggravation is a material

1   aggravation and the relationship of the aggravation to the  
2   claimant's employment is established by clear and  
3   convincing evidence.

4

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

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

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17       (g) The division may by rule and regulation adopt a  
18   list of preferred medications based on clinical efficacy  
19   and safety as well as cost to the workers' compensation  
20   account.

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

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2           **27-14-102. Definitions.**

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4           (a) As used in this act:

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

15

16                   (J) Any mental injury ~~unless it is caused~~  
17 ~~by a compensable physical injury, it occurs subsequent to~~  
18 ~~or simultaneously with, the physical injury and it is~~  
19 ~~established by clear and convincing evidence, which shall~~  
20 ~~include a diagnosis by a licensed psychiatrist or licensed~~  
21 ~~clinical psychologist meeting criteria established in the~~  
22 ~~most recent edition of the diagnostic and statistical~~  
23 ~~manual of mental disorders published by the American~~

1 ~~Psychiatric Association. In no event shall benefits for a~~  
2 ~~compensable mental injury be paid for more than six (6)~~  
3 ~~months after an injured employee's physical injury has~~  
4 ~~healed to the point that it is not reasonably expected to~~  
5 ~~substantially improve~~ except as provided in W.S. 27-14-409.

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7 **Section 3.** This act is effective July 1, 2008.

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(END)