

**Policy Background Paper:**

**Minor Revision to *Policy 1.3.9 – Psychological Injury***

**November 20, 2018**

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## 1. PURPOSE

On March 25<sup>th</sup>, 2014 the WCB Board of Directors approved *Policy 1.3.9 - Psychological Injury* to establish criteria for the adjudication of psychological injury claims under the Nova Scotia *Workers' Compensation Act* (the "Act"). This policy covers conditions diagnosed in accordance with most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), including post-traumatic stress disorder (PTSD).

On October 26<sup>th</sup>, 2017 Government passed amendments to the *Act* that provided the benefit of presumption for PTSD to frontline or emergency response workers. In 2018 the WCB, on behalf of Government, consulted with stakeholders on the content of regulations to support the implementation of the PTSD presumption. Both the presumption and the regulations are effective October 26<sup>th</sup>, 2018.

To ensure clarity and transparency *Policy 1.3.9* has been revised to acknowledge the PTSD presumption for frontline or emergency response workers.

In keeping with the WCB's Policy Consultation Policy, stakeholders are provided with an opportunity to comment on this policy change. This is the only change to *Policy 1.3.9* that is being considered at this time. See Appendix A for revised policy.

For more information on the PTSD presumption for frontline or emergency response workers click [here](#).

## 2. PROPOSED PROGRAM POLICY APPROACH

The following draft language has been added to the policy:

*Notwithstanding the criteria listed above, a claim for a psychological injury that is post-traumatic stress disorder (PTSD) by a front-line or emergency response worker will be adjudicated under Section 12A of the Workers' Compensation Act and sections 40 – 45 of the Workers' Compensation General Regulations.*

As well, the following definition of "front-line or emergency response worker" has been added:

*"front-line or emergency-response worker" means front-line or emergency-response worker as defined in Section 12A(1)(a) of the Workers' Compensation Act and Section 41 of the Workers' Compensation General Regulations.*

These revisions make it clear that workers with PTSD who are front-line or emergency response workers will have their claims considered under the legislative presumption.

### **3. PROVIDING YOUR COMMENTS**

The intent of this change is to ensure clarity and transparency regarding the adjudication of PTSD claims for front-line or emergency response workers. No other changes to the policy are being considered at this time.

Should you have any comments on this change to the policy, you can share your feedback by e-mail or in writing to:

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The deadline to provide your comments is January 11<sup>th</sup>, 2019.

# Appendix - A

**WORK SAFE. FOR LIFE.**  
WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

**NUMBER: 1.3.9R**

## POLICY

Effective Date:	<b>October 26, 2018</b>	Topic:	Psychological Injury
Date Issued:	<b>TBD, 2018</b>	Section:	Entitlement
Date Approved by Board of Directors:	<b>TBD, 2018</b>	Subsection:	General

### PREAMBLE

The purpose of this policy is to establish criteria for the individualized adjudication of psychological injury claims under the *Nova Scotia Workers' Compensation Act*.

### DEFINITIONS

1. The "DSM" is the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, which is a compendium of psychiatric diagnoses produced by the American Psychiatric Association. The manual codes and describes all recognized psychiatric diagnoses and is regarded as the definitive work on the subject. (Source: The Canadian Health Care Glossary).
2. "Traumatic Event(s)" is defined as a direct personal experience of an event or directly witnessing an event that is:
  - Sudden;
  - Frightening or shocking;
  - Having a specific time and place; and
  - Involving actual or threatened death or serious injury to oneself or others or threat to one's physical integrity.
3. **"front-line or emergency-response worker" means front-line or emergency-response worker as defined in Section 12A(1)(a) of the *Workers' Compensation Act* and Section 41 of the *Workers' Compensation General Regulations*.**
4. The "traumatic event(s)" must be assessed using an objective standard, which is a legal standard based on conduct and perceptions external to a particular person. The objective standard used is the reasonable person standard, which is considered an objective standard because it does not require a determination of what the individual was thinking. Rather it is based on a hypothetical person who exercises the degree of attention, knowledge, intelligence, and judgment that society requires of its

members for the protection of their own and others' interests. The reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions<sup>1</sup>.

Examples of Traumatic Events may include, but are not limited to:

- A direct personal experience of an event that involves actual or threatened death or serious injury;
- An actual or threatened violent physical assault;
- Witnessing or experiencing a horrific accident;
- Witnessing or being involved in a hostage taking; and
- Witnessing or being involved in an armed robbery.

## **POLICY STATEMENT**

The WCB will consider claims for compensation under the Nova Scotia *Workers' Compensation Act* when the condition results from stress that is a reaction to one or more Traumatic Events and the specified criteria outlined below are satisfied.

More specifically, the WCB will consider claims for compensation in respect of:

An acute response to one or more Traumatic Event(s) which involves witnessing or experiencing a event(s) that is objectively traumatic. Due to the nature of some occupations, some workers, over a period of time may be exposed to multiple traumatic events. If the worker has an acute reaction to the most recent traumatic event, entitlement may be considered even if the worker may experience these traumatic events as part of the employment and was able to tolerate the past traumatic events. Possible examples would include a paramedic who develops Post Traumatic Stress Disorder after responding to a number of fatal traffic collisions, or a drugstore pharmacist after multiple robberies.

### **Criteria for Traumatic Onset Stress**

Claims for psychiatric or psychological injuries resulting from Traumatic Events may be compensable if all of the following four criteria are satisfied:

- I. There must be one or more Traumatic Event(s) as defined herein;
- II. The Traumatic Event(s) must arise out of and in the course of employment;
- III. The response to the Traumatic Event(s) has caused the worker to suffer from a mental or physical condition that is described in the DSM; and
- IV. The condition is diagnosed in accordance with the DSM and by a health care provider being either a psychiatrist or a clinically trained psychologist registered with the Nova Scotia Board of Examiners in Psychology.

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<sup>1</sup> Black's Law Dictionary, Ninth Edition, 2009

**Notwithstanding the criteria listed above, a claim for a psychological injury that is post-traumatic stress disorder (PTSD) by a front-line or emergency response worker will be adjudicated under Section 12A of the *Workers' Compensation Act* and sections 40 – 45 of the *Workers' Compensation General Regulations*.**

### **Non-Compensable Work-related Events**

Mental or physical conditions are not compensable when caused by labour relations issues such as a decision to change the worker's working conditions; a decision to discipline the worker; a decision to terminate the worker's employment or routine employment related actions such as interpersonal relationships and conflicts, performance management, and work evaluation.

### **APPLICATION**

This policy applies to all decisions made on or after **October 26, 2018** pursuant to the *Nova Scotia Workers' Compensation Act*.

### **REFERENCES**

*Workers' Compensation Act* (Chapter 10, Acts of 1994-95), Section 2, **Section 12A.**  
***Workers' Compensation Act General Regulations, Sections 40 – 45.***

The most current edition of the *American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders*