

Section	Policy
40	44.10.30.30

Section Title: Benefits Administration - *Adjudication and Compensation*
Subject: Serious and Wilful Misconduct
Effective Date: January 1, 1992 to December 31, 2022

A. POLICY

1. FOR ACCIDENTS OCCURRING ON OR AFTER JANUARY 1, 1992

In accordance with *The Workers Compensation Act*, as amended effective January 1, 1992, any worker determined to be guilty of serious and wilful misconduct, will be ineligible for wage-loss benefits for the first three weeks of lost earning capacity resulting from the accident and ineligible for medical aid for the first three weeks after the worker first requires medical aid as a result of the accident.

For the purpose of this policy, the following definitions will apply:

Misconduct will be deemed to be serious and wilful if it is a voluntary act of the worker that demonstrates a reckless disregard for the worker's own safety and which the worker should have recognized as being likely to result in personal injury.

In the case of suicide or attempted suicide, a determination should be made as to whether the event was one which was "arising out of and in the course of employment." Suicide should not be treated as a case of serious and wilful misconduct. All cases of potential serious and wilful misconduct should be examined to ensure the "arising out of and in the course of employment" test is met.

2. FOR ACCIDENTS OCCURRING PRIOR TO JANUARY 1, 1992

In accordance with *The Workers Compensation Act* as it existed prior to January 1, 1992, a worker will receive no compensation for an injury which is solely attributable to the serious and wilful misconduct of the worker unless the injury results in death or serious or permanent disability.

If the injury results in death, or serious disability, or permanent disability, then the worker will be compensated as if there had been no misconduct.

For the purpose of this policy, the following definitions will apply:

Permanent disability is any disability which makes the worker eligible for a permanent disability award.

Serious disability is any disability resulting from a compensable injury resulting in an approved time loss in excess of three (3) weeks.

Misconduct will be deemed to be serious and wilful if it is a voluntary act of the worker that demonstrates a reckless disregard for the worker's own safety and which the worker should have recognized as being likely to result in personal injury.

In the case of suicide or attempted suicide a determination should be made as to whether the event was one which was "arising out of and in the course of employment." Suicide should not be treated as a case of serious and wilful misconduct. All cases of potential serious and wilful misconduct should be examined to ensure the "arising out of and in the course of employment" test is met.

B. REFERENCES

The Workers Compensation Act, section 4(3)

WCB Policy 44.10.30.10, *Drunkenness & Intoxication*

History:

1. Approved by the Board of Directors by Board Order 30/91 on December 11, 1991, effective January 1, 1992.
2. The Administrative Guidelines have been deleted from this policy – November 2002.
3. Minor formatting changes were made to the policy and the history section was updated June 27, 2012.
4. Minor formatting changes were made to the policy, April 2021.
5. This policy was repealed as of December 31, 2022 by Board Order 29/22 and removed from the policy manual and archived.