STATE OF OHIO
WORKERS’ COMPENSATION
COMPRENDIUM OF LAW

Prepared by
Douglas E. Spiker
Roetzel & Andress
1375 E Ninth Street
Cleveland OH 44114
(216) 696-7125
Email: dspiker@ralaw.com
Website: www.ralaw.com
PART ONE

Definitions of Employer and Employee

For purposes of workers’ compensation in Ohio, an “employee” is defined under three broad categories. First, those who work for the state, a county, a municipal corporation, a township, or a school district are considered employees. Second, a person who is employed by any private corporation, firm, or individual is considered an employee, provided that the entity they work for employs one or more person or is bound by contract to pay into the state workers’ compensation insurance fund. Finally, every person who performs labor or services pursuant to a construction contract is considered an employee, provided they meet certain criteria. RC 4123.01 (A)(1).

Under Ohio law, the term “employer” falls into two main categories. First, the state, each county, municipal corporations, townships, school districts, and state hospitals are all considered employers. Second, every person, firm, professional employer organization, or private corporation that employs one or more employees or is bound by contract to pay into the state insurance fund is considered an employer. RC 4123.01 (B)

Compensable Conditions

Under Ohio law, compensable conditions can be divided into two basic categories: injuries and occupational diseases.

An injury is defined as “any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of, the injured employee’s employment.” RC 4123.01(C).

Occupational diseases are another type of compensable condition. These come in two forms: scheduled and nonscheduled. Scheduled occupational disease are diseases the Ohio legislature specifically states are compensable, a list that includes such ailments as lead poisoning, asbestosis, and even anthrax. RC 4123.68. A nonscheduled occupational disease is a disease that is not listed as a scheduled disease but nonetheless satisfies three elements. It must be (1) contracted in the course of employment, (2) the nature of the employment must create an increased hazard of contracting the disease which is different from employment generally; and (3) the employment must create a risk of contracting the disease in a greater degree and in a different manner than in the general public. RC 4123.01(F); Googash v. Conrad, 2004-Ohio-5796, 2004 WL 2445236 (Ohio Ct. App. 2d Dist. Montgomery County 2004).

It is important to note that non-physical conditions, such as psychological or psychiatric conditions, can also be deemed compensable under Ohio law. However, the psychological or psychiatric condition in question must be the result of an allowed occupational disease or injury. RC 4123.01(C), Jackson v. Ohio Bur. of Workers’ Comp., 98 Ohio App. 3d 579, 649 N.E.2d 30 (4th Dist. Scioto County 1994).
The only time a psychological condition can exist in the absence of an underlying occupational disease or injury is when a claimant develops the condition as the result of forced sexual conduct. RC 4123.01(C).

Physical conditions resulting from emotional stress can also be compensable. Previously, physical injury or disability brought on by emotional stress alone was not compensable; there would need to be a contemporaneous physical injury. However, the Ohio Supreme Court in Ryan v. Connor, 28 Ohio St. 3d 406, 410, 503 N.E.2d 1379 (1986) held that a physical injury brought on by mental or emotional stress is compensable, provided it was received in the course of and arising out of the employee’s employment. This stress must be out of the ordinary from which the worker is occasionally subject and must be the medical cause of the injury. In Connor, the injured worker was berated in a meeting with his employer, who was attempting to force him into retirement. The following day he had a heart attack and died while mowing his lawn. The Court, pointing to the excessive berating the injured worker suffered, ruled in his favor.

**Excluded Injuries**

Self-inflicted injuries are not compensable under Ohio law. Furthermore, if the injury results or arises out of intoxication due to alcohol or nonprescription drug use, the claim in also not compensable. RC 4123.452. In addition to these situations, RC 4223.01(C) explicitly lists three types of non-compensable injuries: (1) an injury caused by natural deterioration, (2) an injury incurred via voluntary participation in an employer-sponsored recreation or fitness activity (provided the employee signed a waiver beforehand), and (3) a condition that pre-existed an injury, provided the condition was not substantially aggravated by the injury in question.

Finally, injuries resulting from ridesharing (i.e. carpooling) arrangements are also not compensable, as they do not constitute an activity in the course of employment. RC 4123.452, Ruckman v. Cubby Drilling, Inc., 81 Ohio St. 3d 117, 126, 1998-Ohio-455, 689 N.E.2d 917 (1998).

This Compendium outline contains a brief overview of certain laws concerning various litigation and legal topics. The compendium provides a simple synopsis of current law and is not intended to explore lengthy analysis of legal issues. This compendium is provided for general information and educational purposes only. It does not solicit, establish, or continue an attorney-client relationship with any attorney or law firm identified as an author, editor or contributor. The contents should not be construed as legal advice or opinion. While every effort has been made to be accurate, the contents should not be relied upon in any specific factual situation. These materials are not intended to provide legal advice or to cover all laws or regulations that may be applicable to a specific factual situation. If you have matters or questions to be resolved for which legal advice may be indicated, you are encouraged to contact a lawyer authorized to practice law in the state for which you are investigating and/or seeking legal advice.