**Compensable Injuries and Illnesses in NC**

**Q. Are there requirements in addition to “arising out of and in the course of employment” that must be met for an injury to be compensable under NC Workers’ Compensation law?**

Yes.  Although there are exceptions, the injury must have been caused by and accident, the injury arose out of the employment and the injury was sustained in employment.  The requirement that an injury must be caused by accident is an important feature of the North Carolina Workers’ Compensation Act. The Act specifically provides that an “accident” shall not include “a series of events in employment occurring regularly, continuously, or at frequent intervals.” The courts have defined the term “accident” to mean a separate, “unlooked for and untoward event which is not expected or designed by the injured employee.” The NCIC (North Carolina Industrial Commission) also considers factors such as time, place and circumstance. The burden of proving that an injury was caused by an accident arising out of and in the course of employment rests with the employee.

**Q. I’ve heard that there is an exception to “injury by accident’ for back injuries.  Is this true?**

Yes.  There is an exception to the “injury by accident” requirement  made for back injuries. The law states that where injury to the back arises out of and in the course of the employment and is the direct result of a specific traumatic incident of the work assigned, “injury by accident” shall be construed to include any disabling physical injury to the back arising out of and causally related to such incident.

**Q. We’ve had an employee that states he has developed a hernia from heavy lifting at work.  Are there special requirements for a hernia to be compensable under NC law?**

Yes.  The Workers’ Compensation Act provides specific requirements for compensation for hernias or ruptures. In order to receive compensation for a hernia or rupture resulting from an injury by accident, a specific traumatic incident arising out of and in the course of employment, the employee must demonstrate:

* That there was an injury resulting in hernia or rupture;
* That the hernia or rupture appeared suddenly;
* That the hernia or rupture immediately followed an accident.
* That the hernia or rupture did not exist before the accident for

**Q. An employee tripped and fell going to the break room.  We couldn’t find anything that would have caused the trip.  Is this a compensable injury if medical treatment and days away from work are required?**

It most likely is.  NC Courts have held that a fall at work, for which there is no explanation, is presumed compensable. To rebut this presumption, the employer must prove that the fall was due to a non-work related condition or pre-existing infirmity of the employee.  An example of this may be an employee who had prior knee replacement surgery but had never fully recovered.

**Q. Our company has an annual picnic where family members are invited. Attendance is totally voluntary and no “official business” is conducted.  Are injuries to our employees at these picnics compensable?**

Most likely not unless there was an activity in which only employees were permitted to participate such as a softball or volleyball game.

**Q. We sponsor athletic teams during the year.  Our company pays for the league entrance fee, supplies hats and t-shirts with our company logo as well as athletic equipment.  Are injuries at these events compensable and if they are can we our employees sign a waiver relieving the company for responsibility.**

These injuries most likely are. The NCIC reasons that the company had sponsored and financed the event; that employees considered participating in such as an employment benefit, and the company name and or logo was a form of advertisement.  In regards to waivers, workers’ compensation waivers by employees are not recognized by the NCIC or NC Courts.

**Q. Do claims for carpal tunnel considered injuries or diseases?**

It depends on the circumstances. If carpal tunnel is the result of a single traumatic event, the claim would be considered an injury.  A carpal tunnel condition that is the result of repetitive motion over time would also be considered as an occupational disease.

**Q. What are the eligibility requirements for a condition to be considered as an occupational disease?**

An occupational disease is any which is proven to be due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation or employment and that the employee is exposed more to such than a member of the general public.  Examples of such occupations include printing technicians, vehicle mechanics, and construction workers.

**Q. An administrative assistant was stung by a wasp while at her desk. Would this be covered by workers’ compensation if the sting resulted in medical treatment or days lost?**

This incident probably would not be covered by workers’ compensation.  The NCIC looks at bee stings and bug bites as occupational diseases. The administrative assistant would not be able to show that her place of work exposed to a greater chance of being stung by a wasp than the general public.  Employees, however, working in construction, landscaping or other outdoor activities could demonstrate such.

**Note:** Review state laws for state-specific provisions.

Written by a Catapult Advisor.