

# THE COMPENSATION FUND

Dr Lucas O. Mosidi  
Director: Medical Services

25 July 2019



labour

Department:  
Labour  
REPUBLIC OF SOUTH AFRICA



# Medico-Legal Aspects of PTSD

29%

have **taken time off** due to mental health issues/stress



among these respondents

60%

did not tell their employer that the reason for their absence was mental health



82%

said there is a **stigma around mental health** at work in the industry

# The Definition of PTSD

## PTSD

- Is a mental disorder that represents a pathological response to a traumatic event, characterised by symptoms of recurrent and intrusive distressing recollections of the event (e.g. nightmares, a sense of reliving the experience with illusions, hallucinations, or dissociative flashback episodes, intense psychological or physiological distress at exposure to cues that resemble the traumatic event); avoidance of stimuli associated with the trauma (e.g. inability to recall important aspects of the trauma, loss of interest, estrangement from others); and increased arousal (sleep disturbances, irritability, difficulty in concentrating, hypervigilance, and exaggerated startle response).

# Diagnosis of PTSD (ICD 10)

The ICD-10 diagnosis of PTSD requires that the patient, first, have been exposed to a traumatic event, and second, suffers from distressing re-experiencing symptoms

- (A) Exposure to be stressful and of catastrophic nature
- (B) Persistent remembering or reliving in situations resembling the stressor
- (C) Preferred or actual avoidance of situations resembling the stressor
- (D) Inability to recall some aspects of the stressor or persistent psychological sensitivity and arousal

Criteria B, C, and D must all be met within six months of the stressful event or the end of a period of stress (delayed onset by more than six months is possible, but should be specified).

# DIAGNOSIS OF PTSD (DSM)

DSM – V Diagnostic criteria for PTSD includes a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity.

The diagnosis of PTSD is restricted to people who have experienced exceptionally threatening and distressing events.

(A) Stressor – Direct exposure, witness in person. Indirect learning about close family or friend involved in violent trauma resulting in death

(B) Intrusion symptoms -The traumatic event is persistently re-experienced

(C) Avoidance - Persistent effortful avoidance of distressing trauma-related stimuli after the event

(D) Negative alterations in cognition and mood

(E) Alteration in arousal and reactivity

(F) Duration – Persistent symptoms for more than one (1) month

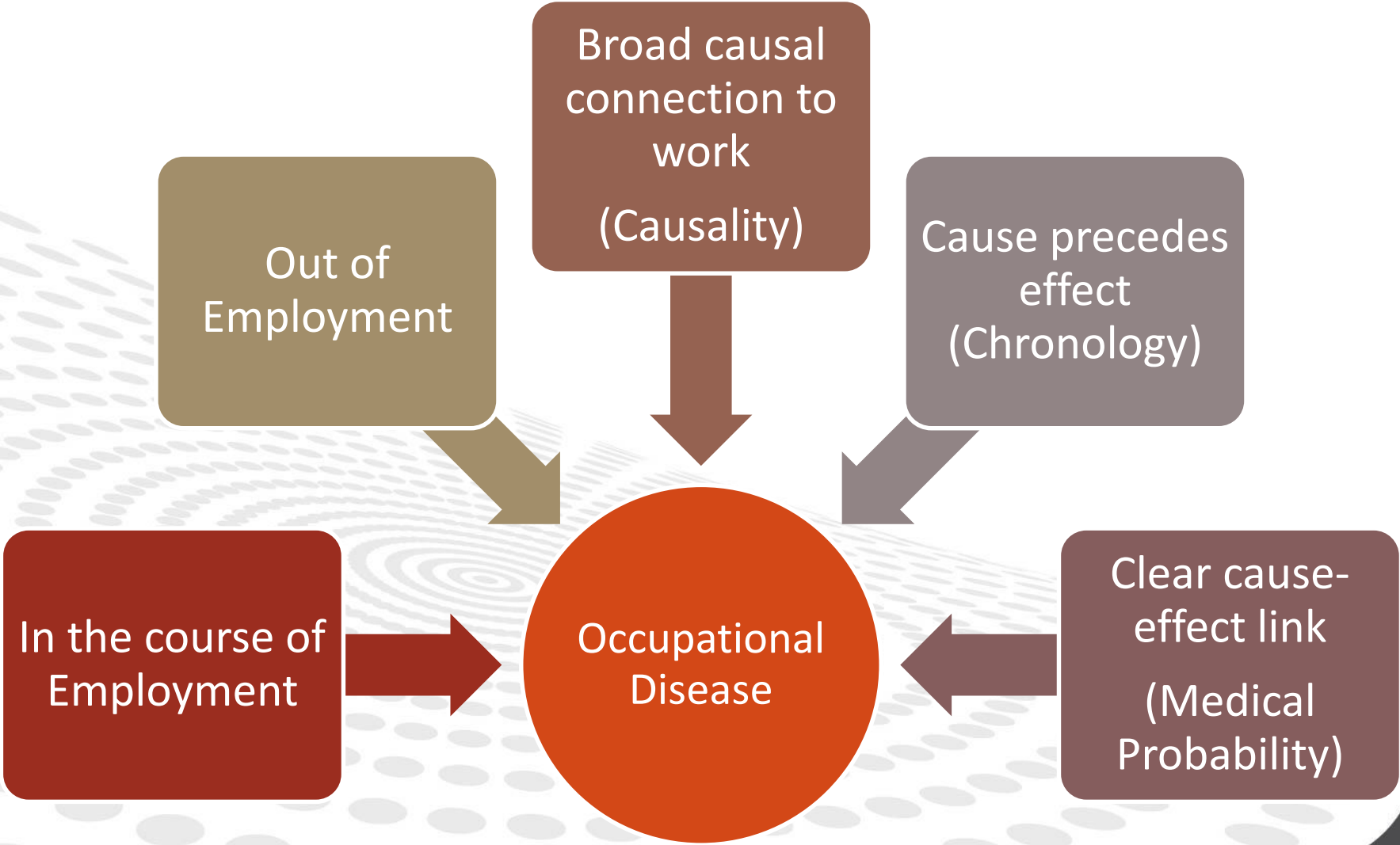
(G) Functional significance - Significant symptom-related distress or functional impairment

(H) Attribution - Disturbance is not due to medication, substance use, or other illness.

# DIFFERENTIAL DIAGNOSES

- Depression – predominance of low mood, lack of energy, loss of interest, suicidal ideation etc.
- Specific phobias – fear and avoidance restricted to specific situations
- Adjustment disorders – less severe stressor, different pattern of symptoms.
- Dissociative disorders
- Neurological damage due to injuries sustained during the event
- Psychosis - hallucinations, delusions.
- Substance abuse

# PTSD AS AN OCCUPATIONAL DISEASE



# OCCUPATIONS AT RISK OF PTSD

Armed Forces

Police

Defence Force

Correctional Services

Security Services

Emergency Response Teams

Emergency Medical Service

Trauma Unit Staff

Disaster Management

Fire Services

Victims of Violence

Sexual Assault

Terrorism

Riots

War/ Torture

Vicarious Trauma

Witnesses of Crime/ Trauma

Journalists

Violence Perpetrators

# EPIDEMIOLOGICAL FACTS

The majority of people will experience at least one traumatic event in their lifetime (Kessler et al, 1995).

Intentional acts of interpersonal violence, in particular sexual assault, and combat are more likely to lead to PTSD than accidents or disasters (Kessler et al, 1995; Stein et al, 1997; Creamer et al, 2002).

Men tend to experience more traumatic events than women, but women experience higher impact events (i.e. those that are more likely to lead to PTSD; Kessler et al, 1995; Stein et al, 1997).

Women are more likely to develop PTSD in response to a traumatic event than men. This enhanced risk is not explained by differences in the type of traumatic event (Kessler et al, 1995).

# EVOLUTIONARY STAGES OF PTSD

| Evolutionary Stage          | Onset of Symptoms  | Duration            |
|-----------------------------|--------------------|---------------------|
| Acute Stress Disorder (ASD) | Immediate          | Less than 3 months  |
| Acute PTSD                  | 1 – 3 months       | 1 – 6 months        |
| Classic PTSD                | 1 – 6 months       | 6 – 24 months       |
| Delayed-onset PTSD          | More than 6 months | 6 – 24 months       |
| Persistent/ Chronic PTSD    | 1 – 6 months       | More than 24 months |

# PREVALENCE OF PTSD

- PTSD is a common disease
- Lifetime prevalence of PTSD of 7.8% (Women: 10.4%; Men: 5.0%)[Kessler et al, USA]
- Estimates for the 12-month prevalence range between 1.3% (Australia; Craemer *et al*, 2001) and 3.6 % (USA; Narrow *et al*, 2002).
- One-month prevalence range between 1.5 and 1.8 % using DSM-IV criteria (Stein *et al*, 1999; Andrews *et al*, 1999), and 3.4 % using the less strict ICD-10 criteria (Andrews *et al*, 1999).
- SA Stress and Health Study – Estimates 2.3% lifetime and 0.6% 12 months prevalence.
- High rates of PTSD (19%) documented in patients attending PHC clinics in SA

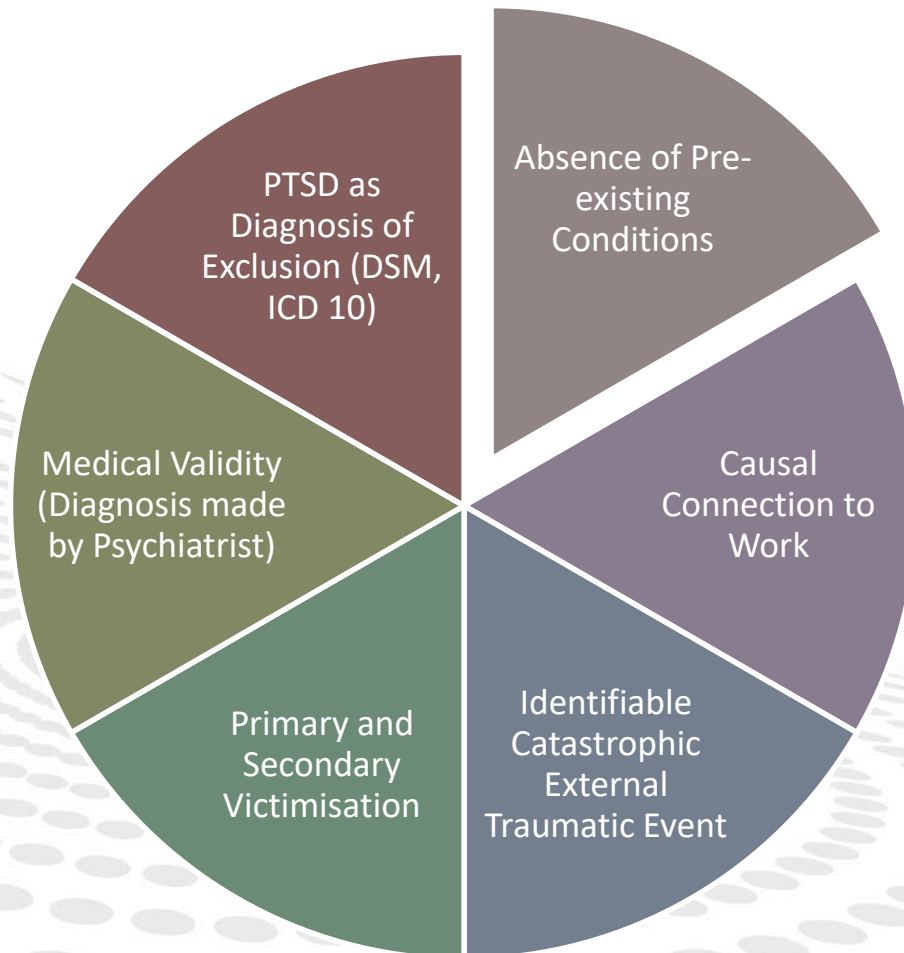
# INCIDENCE OF PTSD

- Kessler *et al* (1995) found that the risk of developing PTSD after a traumatic event is 8.1% for men, and 20.4% for women.
- Retrospective studies in SA estimates PTSD rates in the occupational setting to be between 12 – 53% in the Police Services.
- Emergency Medical Services estimated at 15 – 32%.
- Banking sector and mining next in incidence (Maabela, 2015).
- 36% of all individuals diagnosed with PTSD were severely ill.

# CHALLENGES EXPERIENCED BY PTSD SUFFERERS



# THE BURDEN OF PROOF



# PREAMBLE TO MENTAL HEALTH ACT

- Recognising that health is a state of physical, mental and social well-being and that mental health services should be provided as part of primary, secondary and tertiary health services.
- Recognising that the Constitution of the Republic of South Africa, Act 108 of 1996, prohibits against unfair discrimination of people with mental or other disabilities.
- Recognising that the person and property of the person with mental disorders or mental disabilities may at times require protection and members of the public and their properties may similarly require protection from people with mental disorders or mental disabilities; and
- Recognising further that there is a need to promote the provision of mental health care services in a manner that promotes the maximum mental well-being of users of mental health care services and communities in which they reside.

# THE LEGISLATIVE FRAMEWORK

## Constitution (The Bill of Rights)

**Section 27(1)(c):** Everyone has the right to have access to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.

**Section 27(2):** The state must take reasonable legislative and other measures within its available resources, to achieve the progressive realization of each of these rights

**Section 27(3):** No one may be refused emergency medical treatment

## Basic Conditions of Employment Act (BCEA 75 of 1997)

**Section 22:** Sick Leave – 36/12 cycle

**Section 23:** Proof of Incapacity – Sick note if absent 2 days or more

**Section 24:** Application to occupational accidents or diseases – Nullifies Sections 22 & 23

**Section 25:** Maternity Leave – 4/12

**Section 26:** Protection of employees before and after birth of a child- **(1)** No hazardous work; **(2)** Suitable or alternative employment on same terms for six (6) months post-natally if **(a)** Night Work and **(b)** Reasonably Practicable

**Section 83:** Deeming of persons as employees

**Section 87(1)(b):** Code of Good Practice on the Protection of Employees during Pregnancy and after the Birth of a Child.

# THE LEGISLATIVE FRAMEWORK

## Mental Health Act (MHA 17 of 2002)

**Section 8:** Respect, human dignity and privacy

**Section 9:** Consent to care, treatment and rehabilitation services and admission to health establishment

**Section 10:** Unfair discrimination (discrimination on grounds of mental health status)

**Section 11:** Exploitation and abuse

**Section 12:** Determinations concerning mental health status

**Section 13:** Disclosure of information (prohibits disclosure of confidential information)

## Mental Health Act (MHA 17 of 2002)

**Section 17:** Knowledge of rights (mental health care service users must be informed of their rights)

**Section 25:** Voluntary care, treatment and rehabilitation services

**Section 26:** Care, treatment and rehabilitation services for mental health care service users incapable of making informed decisions

**Section 27:** Application for assisted care, treatment and rehabilitation services

# THE LEGISLATIVE FRAMEWORK

## Compensation for Occupational Injuries & Diseases Act (COIDA 130 of 1993)

**Section 22:** Right to Compensation; read in conjunction with **Sections 38 – 41.**

**Section 26:** Special circumstances in which the Director-General may refuse award

**Section 28:** Employee requiring constant help

**Section 29:** Liability for payment of compensation

**Section 42:** Employee to submit to medical examination

**Section 44:** Prescription

**Section 45:** Consideration of claim; read in conjunction with **Sections 47 – 49.**

**Section 56:** Increased compensation due to negligence of employer

## Compensation for Occupational Injuries & Diseases Act (COIDA 130 of 1993- cont.)

**Section 66:** Presumption regarding cause of occupational disease; read in conjunction with **Sections 65 & 68.**

**Section 73:** Medical expenses; read in conjunction with **Sections 72 & 74.**

**Section 75:** Director-General to decide on need for, and nature and sufficiency of, medical aid.

**Section 76:** Fees for medical aid; read in conjunction with **Sections 77 & 78.**

**Section 79:** Consultation of representative medical authorities by Director-General.

**Section 85:** Variation of tariff of assessment

**Section 90:** Review of decisions by Director-General

**Section 91:** Objections and appeal against decisions of Director-General

# REMISION – THE GOOD NEWS..

- Various remission estimates from observational studies obtained on people with PTSD not on treatment.
- Remission defined as PTSD cases at baseline who are non-cases after a predetermined minimum period, without treatment.
- Mean observation period was 40 months.
- Across all studies 44% of PTSD case at baseline were non-cases at 10 months, without treatment.
- Remission varied between 8 and 89%.
- This high variation shows that with appropriate treatment and psychosocial support, remission approaches 100%
- Therefore there is no reason to have people with Persistent or Chronic PTSD..



**Thank You...**