

An Oral Presentation on Carpal Tunnel: A State Survey

**Presented by:
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THE PRACTICAL ALTERNATIVE TO WORK.

Cumulative Trauma and Carpal Tunnel

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I. Cumulative Trauma: Generally

Virtually all jurisdictions recognize some form of cumulative trauma in which some injuries are compensable even if they are not the result of a traumatic accident, but instead are gradually developed. Louisiana is a notable exception; lawmakers amended their Workers' Compensation Code to specifically exclude repeated trauma from the definition of accident. Most states, like Alabama, justify the recognition of cumulative trauma by explaining that each exposure to a sound, movement or fume constitutes a "mini-trauma" and that each instance is an "accident" subject to the act. Thus, the subsequent injury is compensable. Virtually all states who recognize gradual injuries (i.e. injuries in which "neither the cause nor result is at all sudden") have found this to be the most persuasive argument for compensability.

A few states have explained that cumulative injuries are compensable because the feeling of the pain of the injury constitutes the accident for the purposes of the Act. These states include New Mexico, Florida, and Arizona. The third approach to finding compensability is to find that a traumatic event or sudden accident is not a vital component of compensable injuries. These states include Maine, Maryland, Pennsylvania, Oklahoma, Utah and the District of Columbia. These states have, at some point, ignored the "accidental" language of their Code.¹ Maine has gone so far as to remove the term "by accident" from their definition of injury.²

II. Carpal Tunnel as a Compensable Injury

While all states have recognized carpal tunnel syndrome ("CTS") as a compensable injury or disease under their respective Acts, not all characterize them as cumulative trauma. Of course, a single traumatic event can cause carpal tunnel syndrome. If that is the case, then the CTS will

¹Larson's Workers' Compensation Law § 50.04 (all information from Section I, unless otherwise noted is a summary of this section).

²*Ross v. Oxford Paper Co.*, 363 A.2d 712, 713 (Me. 1976).

be compensated as an accident. See Alabama, Colorado, Nebraska, New Hampshire and Ohio. The New Hampshire Supreme Court probably put it this approach most succinctly when it stated, “The cause of the injury—not the symptoms—determines which way it is classified.”³

Far less common are states that refuse to recognize CTS as an accidental injury at all. In these jurisdictions, CTS is most likely to be characterized as a occupational disease, with the slight variation on the standard requirements of occupational diseases: that CTS is due to the nature of the employment and that the manifestation of the disease is consistent with exposure to that employment. These jurisdictions include Maryland, Missouri, Montana, New Jersey, Oregon, Rhode Island, Texas and Virginia (both under “ordinary diseases of life” subset).

III. Burden of Proof; Medical Causation

Almost all jurisdictions have a preponderance standard for proving carpal tunnel syndrome. They use many different terms, such as “more likely than not,” but the crux is that the claimant must prove that the injury is more likely related to the work. This segues nicely into a brief discussion of medical causation. In most districts the claimant must show medical causation by proving that the employment is causally related to the injury. While hardly any jurisdictions (save Idaho, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, Oklahoma, probably South Dakota, Wisconsin, and Federal) *requires* medical testimony to establish this causal relationship, in almost every district, the absence of medical testimony is not looked upon favorably. This is especially true if the determination of causality is technical or difficult. Some jurisdictions hold that while medical testimony is not required, there is a presumption of compensability if medical testimony is presented.

³*In re CNA Ins. Co.*, 807 A.2d 1127, 1230 (N.H. 2002).

There are numerous exceptions to the preponderance standard. Alabama and Virginia, for example, require clear and convincing evidence in the case of carpal tunnel syndrome. Many other jurisdictions require that expert testimony require a degree of certainty—beyond a mere probability that the employment caused the injury. This seems to raise the standard beyond a preponderance. Some jurisdictions have a burden shifting system in which the claimant only has to make a prima facie case to be rebutted by the employer.

Overall, all states have compensated employees for CTS under some part of their act. Expert medical testimony is expected in these cases if not required. The burden tends to be a bit higher, but this may just be due to the more technical nature of CTS as opposed to other work-related injuries.

State	Carpal Tunnel characterized as:	Burden of Proof	Type of Proof
AL	Accident/cumulative trauma or accident (if not caused by repetitive act)	C & C Preponderance	Expert testimony: A trial court may find medical causation without the benefit of testimony from medical experts. Additionally, lay testimony may combine with medical testimony to provide proof of causation because it is in the overall substance and effect of the whole of the evidence, when viewed in the full context of all lay and expert evidence, and not in the witness's use of magical words or phrases, that the test finds its application. <i>Ex parte McInish</i> , 2008 Ala. LEXIS 192, *30 (Ala. Sept. 5, 2008).
AK	Work related injury	Burden shifting	Expert testimony: 'A presumption of compensability applies to all workers' compensation claims; if the presumption remains unrebutted, the Board must find that the claim is compensable. The worker is thus freed from having to prove (1) that "but for" the employment the disability would not have occurred, and (2) that reasonable persons would regard the

			<p>employment as a cause of the injury and attach responsibility to it. But the presumption of compensability does not free an injured worker from the burden of introducing evidence as to the extent of the injury and the amount of medical expenses. Allocation of this burden to the claimant makes sense because the extent of injury and amount of medical expenses are unique in each case, and the worker often has greatest access to such information. Because medical expenses are not presumed, a claimant has the burden of proving them by a preponderance of the evidence.” <i>Tolbert v. Alascom, Inc.</i>, 973 P.2d 603, 607-08 (Alaska 1999).</p>
AZ	<p>Accident/Sudden pain of injury qualifies <i>Lumberman’s Mut. Cas. Co. v. Industrial Comm’n</i>, 497 P.2d 531 (1971).</p>	<p>Substantial causal relationship. <i>Karber/ Interstate Air v. Indus. Comm’n.</i>, 885 P.2d 99, 102 (Ariz. App. 1994).</p>	<p>Expert testimony: Despite the absence of a particular work event which caused the pain, the injury is compensable if there is medical testimony relating the injury to the work. <i>Lumberman’s Mut. Cas. Co.</i>, 497 P.2d at 532.</p>
AR	<p>Accident/Cumulative Trauma “repetitive movement injury” <i>Service Pharmacy v. Cox</i>, 478 S.W.2d 749 (1972). Carpal Tunnel included: <i>Kildow v. Baldwin Piano & Organ</i>, 969 S.W.2d 190 (1998).</p>	<p>Preponderance <i>Swafford v. Pocahontas Pub. Sch.</i>, 2008 Ark. App. LEXIS 682, *6 (Ark. App. Oct. 1 2008).</p>	<p>Expert testimony: Carpal Tunnel: Does not have to show rapid, repetitive movements in the workplace as long as there is a credible diagnosis of the condition and the evidence tends to show it relates back tot he work performed. <i>Kildow</i>, 969 S.W.2d at 340. Even if duties are somewhat varied, the court will consider them in totality as far as stress on joints. Thus, burden of proof is to show constant stress, not the too high burden of showing the same movement again and again at a notably high rate of activity. <i>Baysinger v. Air Systems, Inc.</i>, 934 S.W.2d 230, 231 (Ark. App. 1996). Causation: Prong 1: Major cause: must prove the injury was the major cause of the need for treatment. Prong 2: must prove a causal connection between the employment and the injury. <i>Crudup v. Regal Ware</i>, 20 S.W.3d 900, 904 (Ark. 2000). Such evidence of repetitive movements are</p>

			<p>not enough on their own to establish causation. <i>Id.</i></p> <p>Medical opinions addressing causality must be stated within a reasonable degree of medical certainty. It can't just state that there's a possibility or even a probability. Ark Code. Ann. § 11-8-102(16)(B).</p> <p>The record ought to have a credible medical opinion to establish causation. But objective medical evidence is not required—the claimant's testimony alone can suffice. But, the commission can't arbitrarily disregard medical evidence. (*11) <i>Swafford v. Pocahontas Pub. Sch.</i>, 2008 Ark. App. LEXIS 682, *6 (Ark. App. Oct. 1, 2008).</p> <p>The medical expert's opinion will be disregarded if the expert is unfamiliar with the claimant's job duties. <i>Cullum v. Harris</i>, 2003 Ark. App. LEXIS 421, *11 (Ark. App. May 14, 2003).</p>
CA	<p>Accident/Cumulative Trauma</p> <p><i>Beckstead v. Workers' Comp. App. Bd.</i>, 60 Cal. App. 4th 787 (1997).</p>	<p>Reason-able probability</p> <p><i>Nash v. Workers' Comp. Appeals Bd.</i>, 24 Cal. App. 4th 1793, 1811 (Cal. App. 1994)</p>	<p>Expert testimony:</p> <p>If the employer has actual knowledge that the claimant is suffering from a cumulative trauma caused by repetitive writing and typing, then the Board <i>must</i> apply the cumulative injury theory to the claim. <i>Beckstead v. Workers' Comp. App. Bd.</i>, 60 Cal. App. 4th 787 (1997).</p> <p>Labor Code § 5500.5 limits cumulative trauma to employers in the past 5 years of employment. Within those 5 years, employers are liable for the whole injury.</p>
CO	<p>As Occupational Disease: <i>Climax Molybdenum Co. V. Walter</i>, 812 P.2d 1168, 1176 (Col 1991).</p> <p>As injury: <i>Wal-Mart Stores, Inc. v. Indus. Claims Office</i>, 989 P.2d 251, 253 (Col. App. 1999).</p> <p><i>Monfort, Inc. V. Rangel</i>, 867 P.2d 122 (Col. App. 1994).</p>	<p>Preponder-ance/ shifting</p> <p><i>Qual-Med, Inc. v. indus. Claims Appeals Office</i>, 961 P.2d 590, 592 (Col. App. 1998).</p>	<p>Expert testimony:</p> <p>The claimant must show that the injury for which he or she seeks payment is causally related to the employment. A physician should rate the loss. However, the employer may rebut the medical evidence with clear and convincing evidence. <i>Qual-Med</i>, 961 P.2d at 592.</p>

CT	Allows recovery	Must base findings on substantial evidence	Expert testimony: Testimony from the medical experts is deemed competent where the experts based their testimony regarding the plaintiff's condition on medical reports made at the time of consultation and their diagnoses for the treatment of the plaintiff. <i>Weiss v. Chesebrough-Ponds Co.</i> , 719 A.2d 1225, 1228 (Conn. App. 1998).
DE	Accident/Cumulative trauma, including carpal tunnel: <i>GMC v. Parker</i> , 1999 Del. Super. LEXIS 489, *18 (Del. Sup. Ct. Sept. 1, 1999).	But/For (see next column for citation)	Expert testimony: Must prove injury is related to repetitive task at work. Medical evidence is helpful when doing this. See <i>Winterthur Museum v. Mowbray</i> , 2006 Del. Super. LEXIS 216, *14-15 (Del. Sup. Ct. May 12, 2006).
FL	Accident/Cumulative Trauma, <i>Tokyo House, Inc. V. Hsin Chu</i> , 597 So. 2d 348 (Fla. Ct. App. 1992). Carpal tunnel included: <i>Festa v. Teleflex, Inc.</i> , 382 So. 2d 122 (Fla. Ct. App. 1980).	However, the burden for exposure theory is less than that of occupational disease since no proof of unusual exposure is necessary. <i>Miami v. Tomberlin</i> , 492 So. 2d 433 (Fla. Ct. App. 1986).	Expert testimony: 3 prong test: 1) Prolonged exposure, 2) the cumulative effect of which is injury or aggravation of a pre-existing condition and 3) that he has been subjected to a hazard greater than that to which the general public is exposed. <i>Festa</i> , 382 So. 2d at 124. [this is "exposure theory is like occupational disease except no proof of peculiar exposure is necessary] If it is within the realm of medical possibility that the injury was sustained on a definite date during the employment, this is enough to sustain a finding of an unexpected or sudden injury. <i>Armstrong v. Munchies Caterers, Inc.</i> , 377 So. 2d 748, 749.
GA	Covered, generally	Preponderance of competent and credible evidence that the condition is related to the job.	Expert testimony: Must show that it's related to employment. <i>J & L Foods v. Brooks</i> , 448 S.E.2d 19, 20 (Ga. App. 1994).
HA	Covered	Presump-tion	To be compensable, must be a consequence

		of compensability/burden shifting <i>Igawa v. Koa House Rest.</i> , 38 P.3d 570, 575 (Haw. 2001).	of a work-related injury. <i>Igawa</i> at 575.
ID	Accident/Cumulative Trauma, "repeated trauma" <i>Adrich v. Dole</i> , 249 P. 87 (Id. 1926).	Preponderance <i>Stevens-McAteer v. Potlatch Corp.</i> , p. 3d 288, 295 (Ida. 2008).	Expert testimony: The Supreme Court notes that the accident definition has been blurred in an effort to compensate deserving employees for cumulative trauma accidents. However, compensation for injuries related to prolonged standing can be denied even if medical testimony is offered saying that the standing exacerbates pain or may have caused the injury. <i>Perez v. JR Simplot Co.</i> , 816 P.2d 992, 993 (1991) [Attempt to reel it in] Medical: must show a reasonable degree of medical probability that the injury is causally related to the accident of employment. Probable means more likely than not. <i>McAteer</i> at 295. When using medical testimony, no magic words are necessary, just an indication that the physician thought the causation was more likely than not. <i>Id</i> at 297. But, if the employee claims repeated trauma, the employer can rebut by offering proof of smoothness. <i>Talbot v. Ames Const.</i> , 904 P.2d 560, 561 (1995)(smooth riding truck could not have caused employee's acute epididymitis).
IL	Accident/Cumulative Trauma, <i>Quaker Oats Co. v. Industrial Comm'n</i> , 111 N.E.2d 351 (1953). Carpal Tunnel included: <i>Peoria County Belwood Nursing Home v. Industrial Comm'n</i> , 505 N.E.2d 1026, 1027 (Ill. 1987).	Sufficient medical evidence to establish that the injury is work related—like any other comp accident. <i>Peoria County belwood</i>	Expert testimony: Medical testimony probably necessary: A court denied compensation for a repetitive trauma injury when the claimant failed to present medical testimony establishing a causal connection between the work performed and the medical problems, and the failure to show a precise, identifiable date when the injury manifested itself. <i>Nunn v. Illinois Indus. Comm'n</i> , 510 N.E.2d 502, 507 (1987). However, the court has held that the

		<i>Nursing Home</i> at 1028.	Commission can award benefits on any legal basis and the evidence does not support the conclusion. Legal basis includes an identifiable accident (such as a collapse) at a particular time and place. <i>Butler Mfg. Co. v. Indus. Comm'n.</i> , 489 N.E.2d 374, 380 (1986).
IN	Accident/Cumulative Trauma, <i>Blacksmith v. All-American, Inc.</i> , 290 N.W.2d 348 (Iowa 1982). Carpal Tunnel included: <i>Duvall v. ICI Arms., inc.</i> , 621 N.E.2d 1122 (Ind. Ct. App. 1993)(includes diseases that result from on-the-job injuries).	But/for the employment, the injury would not have happened. <i>Duvall</i> at 1126.	
IA	Accident/Cumulative Trauma	Preponderance <i>St. Lukes Hosp. V. Gray</i> , 604 N.W.2d 646, 652 (Iowa 2000).	Expert testimony: The claimant needs to only show that the claimant's carpal tunnel was a "rational consequence" of his repetitive work. [This is like medical causation.] <i>Meyer v. IBP Inc.</i> , 710 N.W.2d 213, 222 (Iowa 2006). Factual or medical causation are questions of fact. A causal connection is <i>essentially within the domain of an expert</i> . The commissioner is free to accept or reject, in whole or in part, expert testimony even if uncontroverted. <i>Hughes v. Quaker Oats Co.</i> , 2003 Iowa App. LEXIS 1007, *3 (Iowa App. 2003).
KS	Accident/Cumulative Trauma, as opposed to occupational disease: <i>Martin v. Cudahy Foods Co.</i> , 646 P.2d 468 (Kan. 1982).	Preponderance	Same proof as any other accident since it's repetitive small trauma. <i>Martin</i> at 471.
KY	Accident/Cumulative Trauma, <i>Pittsburgh & Midway Coal Mining Co. v. Chappel</i> , 714 S.W.2d 485 (KY. Ct. App. 1986).	Causal connection	Expert testimony: The fact that there is no single incident of trauma is of no significance in determining that the alleged injury is a work-related injury rather than an occupational disease. <i>Chappel</i> , 714 S.W.2d at 486. "Medical causation must be proved to a reasonable medical probability with expert

			<p>medical testimony but KRS 342.0011(1) does not require it be proved with objective medical findings. It is the quality and substance of a physician’s testimony, not the use of particular ‘magic words’ that determines whether it rises to the level of reasonable medical probability.” if the evidence conflicts, the ALJ must weigh it and decide which is most credible and reliable. <i>Brown-Forman Corp. v. Upchurch</i>, 127 S.W.3d 615, 621 (Kent. 2004).</p>
LA	<p>Previously, Louisiana would have compensated CTS as an accident/cumulative trauma.; <i>McCoy v. Kroger Co.</i>, 431 So. 2d 824 (La. Ct. App. 1983)(cumulative trauma can result from congenital abnormality coupled with normal work duties–injury compensable as cumulative trauma when walking and standing combined with claimant’s preexisting foot problem to produce injury.) However: In 1989, LA amended its statute to define ‘accident’ to EXCLUDE repeated trauma–there must be an actual event directly producing something more than a gradual deterioration.</p>	<p>Preponderance/ more likely than not: <i>Duckworth v. Winn Dixie Louisiana, Inc.</i>, 490 So. 2d 408, 412 (La. App. 1986). Presumption of work related– next column</p>	<p>Expert testimony: Although the claimant couldn’t pinpoint the exact injury date, medical testimony said that she suffered micro-trauma in the performance of her duties. It was clear that the duties caused the accident, so the injury was compensable. <i>Robin v. Schwegmann Giant Supermarkets, Inc.</i> 646 So. 2d 1030 (La. Ct. App. 1994). The claimant’s testimony coupled with the testimony of an expert that the work activities may have caused the injury are sufficient to support an award. <i>Lacava v. Albano Cleaners</i>, 653 So. 2d 834 (La. Ct. App. 1994). There is a there is a presumption that the injury is work related if the claimant was in good health before the accident, but began to display signs and symptoms of injuries after the accident along with sufficient medical evidence to show the causal connection or nature of the accident or of that combines with other facts that cause one to naturally infer a causal connection through human experience. <i>Duckworth</i> at 412.</p>
ME	<p>Covers all injuries at work–an amendment removed the term “by accident” so that all personal injuries would qualify under the Act. <i>Ross v. Oxford Paper Co.</i>, 363 A.2d 712, 713 (Me. 1976)</p>	<p>Sufficient evidence giving way to a reasonable inference. <i>Ross</i> at 716.</p>	
MD	Accident/Cumulative	See next	Nowhere within the opinion did the Court of

	Trauma, <i>Foble v. Knefely</i> , column 6 A.2d 48 (Md. 1939). BUT, carpal tunnel syndrome is considered an occupational disease. <i>Lettering Unlimited v. Guy</i> , 582 A.2d 996, 998 (Md. App. 1990).		Appeals hold that injury caused by repetitive but ordinary, usual or expectable trauma could provide the basis for a compensable accidental injury. <i>Lettering Unlimited</i> at 999. Some courts have applied occupation disease analysis to CTS cases. (1) Such disease is due to the nature of an employment in which the hazards of the disease actually exist, and it may reasonably be concluded, based on the weight of the evidence, that the disease was incurred as a result of his employment; or (2) The manifestations of the disease are consistent with those known to result from exposure to a given physical, biological, or chemical agent attributable to his type of employment, and it may reasonably be concluded, based on the weight of the evidence, that the disease was incurred as a result of his employment. <i>Miller v. Western Elec. Co.</i> , 528 A.2d 486, 491 (Md. App. 1986).
MA	Carpal tunnel is compensated <i>See generally Pilon's Case</i> , 866 N.E.2d 977 (Mass. App. 2007).	We will not disturb the judge's findings that are reasonably deduced from the evidence and the rational inferences of which it was susceptible <i>Id.</i>	
MI	Carpal tunnel is generally compensable <i>Ferris v. Detroit Stoker Co.</i> , 1999 Mich. App. LEXIS 1620 (Mich. Ct. App. Apr. 9, 1999).	competent, material and substantial evidence	Expert testimony: Magistrate may weigh evidence and disregard some medical testimony in favor of other medical testimony so long as there's a rational basis for the decision. <i>Sundholm v. Mitchell Co.</i> , 1996 Mich. App. LEXIS 966, *7 (Mich. App/ Oct. 11, 1996).
MN	Accident/Cumulative Trauma, <i>Manthe v.</i>	Preponderance	

	<i>Employers Mut. Cas. Co.</i> , 58 N.W.2d 758 (1953).	<i>Alcozer v. North Country Food bank</i> , 635 N.W.2d 695, 700 (Minn. 2001).	
MS	Accident/cumulative trauma "Progressive injury" <i>Segar v. Garan, Inc.</i> , 388 So. 2d 164, 165 (Miss. 1980).	Probable as opposed to possible (see next cloumn)	Expert testimony: The compensation process is not a game of say the magic word,' in which the rights of injured workers should stand or fall on whether a witness happens to choose a form of words prescribed by court or legislature. What counts is the real substance of what the witness intended to convey. Such expert testimony of the doctor, plus the corroborating evidence, constitutes substantial evidence to support the Commission's finding. <i>Segar</i> at 165. In all but the simple and routine cases it is necessary to establish medical causation by expert testimony. A claim of disability must be supported by medical findings. Medical evidence must prove not only the existence of a disability but also its causal connection to employment. <i>Shipp v. Thomas and Betts and Ace Ins. Co.</i> , 2009 Miss. App. LEXIS 43, *12 (Miss. App. Jan. 27, 2009)(internal citations omitted).
MO	Accident/Cumulative Trauma, <i>Davis v. Butler Mfg. Co.</i> , 659 S.W.2d 523 (Mo. Ct. App. 1983). BUT carpal tunnel is an occupational disease. <i>Endicott v. Display Tech, Inc.</i> , 77 S.W.3d 612 (Mo. 2002).	The claimant must establish, generally through expert testimony, the probability that the occupational disease was caused by conditions in the work place. <i>Townser v. First Data Corp.</i> , 215	Expert testimony: No unusual exertion or suddenness is necessary. <i>Davis</i> , 659 S.W.2d at 525. Whether expert testimony is needed therefore depends upon whether the injury or injuries are "sophisticated," meaning requiring surgery or "highly scientific technique for diagnosis." And an additional injury to the same area is simply more likely to place the matter outside the realm of lay understanding. <i>Bock v. City of Columbia</i> , 2008 Mo. App. LEXIS 1741, *12 (Mo. App. 2008). Examples of conditions that have been found to be outside the realm of lay understanding include carpal tunnel syndrome . <i>Id.</i> at *13.

		S.W.3d 237, 242 (Mo. App. 2007).	
MT	<p>Recognizes Accident/Cumulative Trauma, <i>Hash v. Montana Silversmith</i>, 810 P.2d 1174 (1991): A compensable condition may arise over a period of time due to a chain of incidents, but there MUST still be showing that such a chain exists and that it contributed to the injury.</p> <p>BUT carpal tunnel is an occupational disease. <i>Kratovil v. Liberty Northwest Ins.</i>, 2008 MT 443 (Mont. December 29, 2008).</p>		<p>Expert testimony: A series of actions or incidents may be shown to be the cause of the injury under the “tangible happening” and “unusual strain” requirements of the statute. In <i>Hoehne v. Granite Lumber Co.</i>, the claimant was held to have an "injury", though the onset of his carpal tunnel syndrome took place over a period of two months. <i>Hoehne v. Granite Lumber Co.</i> 615 P.2d 1140 (1981). If a disorder develops over years, it is a disease and is not compensable as an injury. <i>McMahon v. Anaconda Co.</i>, 678 P.2d 661, 663 (Mont. 1984).</p>
NE	<p>Occupational Disease, <i>Crosby v. American Stores</i>, 298 N.W.2d 157 (Neb. 1980). OR, it could be considered an accident. <i>Frank v. A & L Insulation</i>, 594 N.W.2d 586 (Neb. 1999). Carpal Tunnel included: <i>Owen v. American Hydraulics, Inc.</i>, 606 N.W.2d 470 (2000).</p>		<p>Expert testimony: While medical testimony need not consist of certain magic words, it must be sufficiently definite that a conclusion can be drawn from it. Medical and legal causation are not to be considered separately as this is only done in heart attack cases (when it’s too hard to attribute directly to the work—there is no such trouble in carpal tunnel cases. Thus, even if the medical evidence says that the work aggravated the carpal tunnel, absent medical evidence that is caused the carpal tunnel, compensation can be denied. <i>Morton v. Hunt Transp., Inc.</i>, 480 N.W. 217 (1992). Carpal Tunnel is recoverable under the theory of occupational disease. <i>Crosby</i>, 298 N.W.2d at 159. “While it is quite clear that a condition resulting from the cumulative effects of repeated work-related trauma has some characteristics of both an accidental injury and an occupational disease the compensability of a condition resulting from the cumulative effects of repeated work-related trauma is to be tested under the</p>

			statutory definition of accident. "suddenly and violently" does not mean "instantaneously and with force." "The specification 'suddenly and violently' is satisfied if the injury occurs at an identifiable point in time, requiring the employee to discontinue employment and seek medical treatment." <i>Frank</i> at 598.
NV	Carpal tunnel covered		See generally <i>Dept. Of Indus. Relations v. Circus Circus Enters.</i> , 705 P.2d 645 (Nev. 1985).
NH	Accident/Cumulative Trauma, <i>Kacavisit v. Sprague Elec. Co.</i> , 155 A.2d 183 (N.H. 1959). Carpal Tunnel included: If it is caused by a single traumatic event, then it can be considered a regular accident. The cause of the injury—not the symptoms—determines which way it's classified. <i>In re CNA Ins. Co.</i> , 807 A.2d 1227, 1230 (N.H. 2002).	Causal connection	Expert testimony: 'In the workers' compensation context, medical causation is a matter properly left to medical experts. The Board's findings should be based on the medical evidence and not its own lay opinion.' This was a CTS case. <i>In re CNA Ins.</i> , 807 A.2d at 1233.
NJ	Occupational Disease: <i>Electronics Assoc., Inc. v. Heisinger</i> , 266 A.2d 601, 602 (N.J. Sup. 1970).		See also <i>Brooks v. Pub. Serv. Elec. & Gas</i> , 693 A.2d 894, 895 (N.J. Sup. Ct. 1997).
NM	Accident: Sudden pain of injury qualifies. <i>Marez v. Kerr-McGee Nuclear Corp.</i> , 595 P.2d 1204 (1978).	Causal connection	Expert testimony: Even if the time when the accidental injury occurred cannot be said with certainty, as long as medical evidence indicates that the re-injury or sudden pain is a sufficient accidental injury. <i>Marez</i> , 595 P.2d at 1209. 'Opinion testimony of a medical expert may be considered as substantial evidence upon which a finding of disability may be made. In addition, once causation is established by appropriate medical evidence, the extent of disability may be established by the plaintiff.' <i>Id.</i> at 1207.
NY	Accident/Cumulative Trauma, <i>Nielson v. Michael Stern & Co.</i> , 233		Expert testimony: A claimant need not have experienced a sudden collapse in order to substantiate an

	N.Y.S.2d 472 (1953). Carpal included: <i>In re Rogers</i> , 2008 N.Y. Slip. Op. 5835 (June 26, 2008)		accidental injury. The accidental character of the injury can be sufficiently established by medical evidence demonstrating that the repetitive acts required by the claim's employment caused a debilitating injury. <i>Farcasin v PDG Inc.</i> , 286 A.D.2d 840, 841 (2001).
NC	Occupational Disease		Expert testimony: North Carolina's comp act has been specifically amended to exclude compensation for carpal tunnel unless it meets the definition of an occupational disease. N.C. Gen Stat. § 97-52. (Cited in <i>Pee v. AVM, Inc.</i> , 543 S.E. 2d 232 (S.C. Ct. App. 2001)) 'Expert testimony based merely on speculation and conjecture is not sufficiently reliable to qualify as competent evidence on issues of medical causation. If an expert's opinion as to causation is wholly premised on the notion of post hoc ergo propter hoc (after it, therefore because of it), then the expert has not provided competent record evidence of causation.'" <i>West v. Consolidated Diesel Co.</i> , 2007 N.C. App. LEXIS 1461, * 11-12 (N.C. App. July 3, 2007)(internal citations omitted).
ND	Covered generally. <i>Ringsaker v. Workforce Safety & Ins. Fund</i> , 693 N.W.2d 14, 15 (N.D. 2005).	Preponderance. <i>Id.</i>	
OH	Occupational disease: <i>Arth Brass Aluminum Casting, inc. v. Conrad</i> , 820 N.E.2d 900, 902 (Ohio 2004). Can be filed as an accident if a traumatic event caused it <i>Meyers v. Avery Dennison Corp.</i> , 1998 Ohio App. LEXIS 4375 (Ohio App. September 18, 1998)(employee's hand caught in wringer; later diagnosed with carpal tunnel syndrome;	Causal connection	Expert testimony: 'The claimant's burden is to persuade the commission that there is a proximate causal relationship between his work-connected injuries and disability, and to produce medical evidence to this effect.'" "The claimant's burden in this regard does not extend so far as to require him to raise, and then eliminate, other possible causes of his disability. This is not a case in which the cause remains unexplained, as in slip-and-fall cases. Here, the claimant has produced direct medical evidence linking his disability with the injuries allowed in the claim. This evidence is sufficient to establish a prima facie causal connection. The burden

	analyzed as an accident).		should then properly fall upon the employer to raise and produce evidence on its claim that other circumstances independent of the claimant's allowed conditions caused him to abandon the job market." <i>Dinner v. Indus. Comm'n.</i> , 2004 Ohio App. LEXIS 1581, *17-18 (Ohio App. April 8, 2004).
OK	Cumulative Trauma, <i>Atlas Coal Corp. v. Scales</i> , 185 P.2d 177 (Okla. 1947). Carpal Tunnel Syndrome: <i>Neal v. American Woodmark Corp.</i> , 136 P.3d 732 (OK. App. 2006).	Burden shifting: claimant must prove they were exposed to cumulative trauma in the course of employment. Then it shifts to employer to refute. <i>Neal</i> at 736.	Expert testimony: "For cumulative trauma injury, the claimant must present lay testimony of the nature of the work that exposed him to the cumulative trauma injury and expert medical evidence establishing a nexus between the activity and the disability for which compensation is sought." "The employer against whom the claimant is proceeding may refute the claimant's evidence with evidence that the conditions of employment could not have caused the injury, or that the injury was caused by exposure during the last 90 days of employment with another employer." <i>Neal</i> at 735. "Oklahoma's jurisprudence does not impose upon an employer an affirmative obligation to prove by competent medical evidence that a causal relationship does <i>not</i> exist between an alleged injury and employment." <i>Neal</i> at 736.
OR	Occupational Disease: <i>In re Stovall</i> , 757 P.2d 410 (Ore. 1988).	Causal connection	Expert testimony: "Rather, the evidence shows with reasonable certainty that there is a causal connection, albeit small, between the claimant's work at Port of Portland and the left-side CTS...[C]ausality should be expressed in terms of reasonable medical probability." <i>In re Cierniak</i> , 142 P.3d 542 (Ore. App. 2006).
PA	Accident/Cumulative Trauma, <i>Merz v. Commonwealth</i> , 373 A.2d 133 (1977). In this case, the court refused to recognize that an accident had caused the claimant's carpal	Causal connection	Expert testimony: When the causal relationship between the claimant's disability and his work activity is not obvious, such as when the injury is alleged to have been caused by a series of events and not any single incident, the claimant must show the chain of causation by unequivocal medical testimony. <i>General</i>

	<p>tunnel and denied benefits. Later, the Act was amended to delete the accident requirement.</p> <p>Applied to carpal—see 3rd column.</p>		<p><i>Elec. Co. V. Workmen’s Comp. Appeal Bd.</i>, 593 A.2d 921 (1991).</p> <p>‘The legislature in 1972 provided a concept of injury broad enough in its scope to encompass all work-related harm to an employee "regardless of his previous physical condition." It may now be said, generally, that an employer takes an employee as he comes. Specifically included in the new statutory conception of "injury" is the job-related aggravation, reactivation or acceleration of a pre-existing disease, even if the underlying disease itself was not caused by a work-related injury.’ <i>City of Philadelphia v. Wrk. Comp. App. Bd.</i>, 851 A.2d 838, 846 (Penn. 2004).</p> <p>‘[T]here is no dispute that the underlying work-related condition, carpal tunnel syndrome, is an injury for purposes of the Act; what is at issue is an aggravation of that injury.’ <i>City of Philadelphia</i> at 847.</p>
RI	<p>Accident/Cumulative Trauma, An accident can consist of an unforeseen result as well as in an unexpected cause. In a noise case, the court saw each outburst of noise as a miniature accident. <i>Lozowski v. Nicholson File Co.</i>, 168 A. 2d 143 (1961). BUT Carpal Tunnel is an occupational disease.</p>	<p>Causal relation to the occupation <i>DiMasco v. Crest Craft</i>, 626 A.2d 221, 224 (R.I. 1993).</p>	<p>The Legislature recognized that an occupational disease is set apart from accidental injuries in that it is not unexpected -- because it is incident to a particular employment -- and it is gradual in development. Accordingly, § 28-34-1(3) defines the term ‘occupational disease’ as a ‘disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process or employment.’ Disability ‘arising from any cause connected with or arising from the peculiar characteristics of the employment’ is listed in § 28-34-2(33) as a compensable occupational disease and is therefore treated as a personal injury. Section 28-34-2. Moreover, § 28-34-3 and § 28-34-4, as amended by P.L. 1992, ch. 31, § 12, provide that a disabled employee is entitled to compensation if the occupational disease is due to the nature of the employment and was [**6] contracted within that employment. <i>Vater v. HB Group</i>, 667 A.2d 283 (R.I. 1995).</p>

SC	Accidental injury, Carpal tunnel is under accidental as opposed to occupational. <i>Pee v. AVM, Inc.</i> , 543 S.E.2d 232 (S.C. App. 2001).	Preponderance <i>Rodney v. Michelin Tire Corp.</i> , 466 S.E.2d 357, 359 (S.C. 1996).	Expert testimony: For carpal tunnel, the employee need not establish that the condition was "caused by a hazard recognized as peculiar to a particular trade, process occupation or employment as a direct result of continuous exposure to the normal working conditions thereof," as required for occupational disease. <i>Pee</i> , 543 S.E.2d at 232.
SD	Compensable	Causal connection to the work by a preponderance.	<p>'We have consistently required expert medical testimony in establishing causation for workers' compensation purposes; and we have held that when the medical evidence is not conclusive, the claimant has not met the burden of showing causation by a preponderance of the evidence. Causation must be established to a reasonable medical probability, not just a possibility. <i>Enger v. FMC</i>, 565 N.W.2d 79, 84-85 (S.D. 1997)(internal citations omitted).</p> <p>'In a worker's compensation case, the claimant has the burden of establishing the causal connection between the employment and the injury by a preponderance of the evidence, and a possibility is insufficient and a probability is necessary." <i>Hanten v. Palace Bldrs. Inc.</i>, 558 N.W.2d 76, 78 (S.D. 1997)(internal citations omitted).</p> <p>'Expert witness testimony must be used to establish the causal connection between one's employment and subsequent injury where the field is one in which laymen are not qualified to express an Opinion." <i>Id.</i></p> <p>'A worker's compensation award cannot be based on possibilities or probabilities, but must be based on sufficient evidence that the claimant incurred a disability arising out of and in the course of his employment. As noted above, where the relationship between the work and the injury is not clear, medical expert testimony is required to establish the causal connection. Medical testimony to the effect that it is possible that a given injury caused a subsequent disability is insufficient, standing alone, to establish the causal</p>

			relation under worker's compensation statutes. [M]edical experts are qualified to express their opinions based upon medical certainty or medical probability, but not upon possibility. In accord with the testimony offered by the medical experts in this case and under the authority cited above, we do not find substantial evidence to support the department of labor's determination of causation. We affirm the circuit court. <i>Id</i> at 81 (internal citations omitted).
TN	Accident/Cumulative Trauma, <i>Benjamin F. Shaw Co. v. Musgrave</i> , 222 S.W.2d 22 (Tenn. 1949). Carpal Tunnel included: <i>A.C. Lawrence Leather Co. v. Britt</i> , 414 S.W.2d 830 (1967).	Causal connection to the work by preponderance <i>Kelly</i> at *11.	Expert testimony: "When the employee presents medical proof that his or her employment caused or could have caused an injury, that is sufficient to make out a prima facie case that the injury arose out of the employment. If the employer introduces no evidence to the contrary, the preponderance of evidence supports an award of worker's compensation benefits." <i>Kelly v. Dollar General Corp.</i> , 2008 Tenn. LEXIS 625, *14 (Tenn. Sept. 25, 2008).
TX	Accident/cumulative trauma "Repetitive Trauma" The Labor Code defines "occupational disease" to mean a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body, including a repetitive trauma injury. Tex.Labor Code Ann. § 401.011(34) (Vernon Supp. 2007). The term does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease. <i>Id.</i> "Repetitive trauma injury" means damage or harm to the physical structure	Preponderance: <i>Simpson v. SORM</i> , 2008 Tex. App. LEXIS 3716, *14 (Tex. App. 2008).	Expert testimony: If the medical testimony conflicts, then the conflict should be explained. In other words, if there are two diagnoses, the doctor making the diagnosis for which the claimant seeks recovery must offer testimony as to why the other diagnosis is mistaken. <i>Simpson</i> at *14.

	<p>of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment.</p> <p>Tex.Labor Code Ann. § 401.011(36).</p>		
UT	<p>Accident/Cumulative Trauma</p> <p>Carpal Tunnel is an accident under the Act. <i>Stouffer Foods Corp.</i> at 180.</p>		<p>Expert testimony:</p> <p>To prove medical causation, the claimant must be allowed to present medical evidence. The commission may refer them to a medical panel. While referral to a panel is not required by statute, in cases where the causal connection may be uncertain or highly technical, failure to refer may be reversible error. <i>Hone v. J.F. Shea Co.</i>, 728 P.2d 1008, 1012.</p> <p>“There are two prerequisites to a finding of a compensable injury under the Workers’ Compensation Act: the injury must have occurred by accident; and there must be a causal connection between the injury and the claimant’s employment activities.”</p> <p>“[T]he unexpected result of a work-related activity may be a compensable accident if both medical and legal causation can be shown”.</p> <p><i>Stouffer Foods Corp. v. Indus. Comm’n</i>, 801 P.2d 179, 180 (Utah App. 1990).</p>
VT	Compensable		<p>Expert testimony:</p> <p>If the finding is supported by some medical evidence, then it will stand. <i>Ethan Allen, Inc. v. Bressett-Roberge</i>, 518; 811 A.2d 171, 173 (Ver. 2002).</p>
VA	<p>Occupational Disease; NO Cumulative trauma, <i>Morris v. Morris</i>, 385 S.E.2d 858 (Vir. 1989).</p> <p>A worker is required to fix the time of the incident within reasonable accuracy; <i>Id.</i> at 864.</p> <p>Cumulative trauma is not injury by accident in Virginia. <i>Kraft Dairy</i></p>	See requirements for ordinary disease of life	<p>If the carpal tunnel is developed from a single incident rather than repetitive trauma, they can recover under accidental injury although carpal tunnel is usually compensated as occupational disease. <i>Ogden Aviation Servs. v. Saghy</i>, 526 S.E.2d 756 (Vir. 2000).</p> <p>§ 65.2-401. "Ordinary disease of life" coverage</p>

	<p><i>Corp. V. Bernadini</i>, 329 S.E.2d 46 (1985). BUT General Assembly amended the Act, effective July 1, 1997, to exclude carpal tunnel syndrome and hearing loss as occupational diseases pursuant to Code § 65.2-400, but to include them as ordinary diseases of life under Code § 65.2-401. See Code § 65.2-400(C). <i>Adams v. Alliance Techsystems, Inc.</i>, 544 S.E.2d 354, 355 (Vir. 2001).</p>		<p>An ordinary disease of life to which the general public is exposed outside of the employment may be treated as an occupational disease for purposes of this title if each of the following elements is established by clear and convincing evidence, (not a mere probability):</p> <ol style="list-style-type: none"> 1. That the disease exists and arose out of and in the course of employment as provided in § 65.2-400 with respect to occupational diseases and did not result from causes outside of the employment, and 2. That one of the following exists: <ol style="list-style-type: none"> a. It follows as an incident of occupational disease as defined in this title; or b. It is an infectious or contagious disease contracted in the course of one's employment in a hospital or sanitarium or laboratory or nursing home as defined in § 32.1-123, or while otherwise engaged in the direct delivery of health care, or in the course of employment as emergency rescue personnel and those volunteer emergency rescue personnel referred to in § 65.2-101; or c. It is characteristic of the employment and was caused by conditions peculiar to such employment.
WA	<p>Accident/Cumulative Trauma, <i>Lehtinen v. Weyerhaeuser Co.</i>, 387 P.2d 760 (1963).</p>	<p>Causal relationship between employment and injury</p>	<p>“An expert medical opinion concerning causal relationship between an industrial injury and a subsequent disability must be based upon full knowledge of all material facts. This rule applies to medical opinions based on incomplete or inaccurate medical history. If the doctor has not been advised of a vital element bearing upon causal relationship, his conclusion or opinion does not have sufficient probative value to support an award.” <i>Iovinelli v. King County</i>, 2006 Wash. App. LEXIS 6, *18 (Wash. App. January 4, 2006).</p>
WV	<p>Accident/Cumulative Trauma, <i>Sansom v. Workers' Comp. Comm'r.</i>, 346 S.E.2d 63 (W. Va. 1986).</p>		<p>Carpal Tunnel is covered as cumulative trauma. See generally <i>Bailey v. Mayflower Vehicles Sys., Inc.</i>, 624 S.E.2d 710 (W.V. 2005).</p>

WI	Compensable	Causal connection	<p>“The burden of proving a work related injury and subsequent period of disability is on the claimant. The commission may deny benefits where there is legitimate doubt, but it cannot entertain legitimate doubt by relying solely on its cultivated intuition. To deny benefits, there must also be more than merely isolated statements taken out of context which are completely explained by other testimony.”</p> <p><i>Williams v. Labor and Ind. Review Comm’n.</i>, 441 N.W.2d 756, 756 (Wisc. App. 1989).</p> <p>The physician must state his or her opinion with a requisite degree of medical certainty in order to support the claim. <i>Williams</i> at 756.</p>
WY	Compensable	Causal relationship by a Preponderance	<p>The burden does not shift to the Commission after the claimant makes a prima facie case. It is their responsibility to present evidence that proves the causal relationship between the injury and the employment by a preponderance. <i>In re Helm</i> at 1241.</p> <p><i>In re Helm</i>, P.2d 1236, 1241 (Wyo. 1999).</p>
DC	Accident=something going wrong with body, not outside occurrence. <i>Washington Hosp. Ctr. v. District of Columbia Dep’t of Employment Servs.</i> , 746 A.2d 278 (D.C. 2000).		<p>Occupational disease requires a showing of something distinctive in nature to that particular type of employment. If the injury is common to the general population, then it can be an accident. <i>Washington Hosp. Ctr.</i>, 746 A.2d 278.</p>
Fed	Accident/Cumulative Trauma		<p>FELA: The claimant’s own testimony is not authoritative or conclusive with regard to medical causation. If medical testimony implies cumulative trauma, then even if the claimant’s own testimony contradicts it, the injury can be compensable. <i>Mateer v. Union Pac. Sys.</i> , 873 S.W.2d 239, 242.</p> <p>Expert testimony is required where the disposition of a medical question controls the resolution of a case. Medical questions may be defined as those concerning highly specialized expert knowledge with respect to which a layman can have no knowledge at</p>

		all, and the court and jury must be dependent on expert evidence. <i>Phelps v. CSX</i> , 634 S.E.2d 112, 117 (Ga. App. 2006).
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