

THRESHOLD PHYSICAL INJURY GUIDELINES

How to use these Guidelines

Section 1.6(1) of the *Motor Accident Injuries Act 2017 (MAIA)* provides that a threshold physical injury is a 'soft tissue injury'.

Section 1.6(2) of MAIA provides that a soft tissue injury is: "*an injury to tissue that connects, supports or surrounds other structures or organs of the body (such as muscles, tendons, ligaments, menisci, cartilage, fascia, fibrous tissues, fat, blood vessels and synovial membranes), but not an injury to nerves or a complete or partial rupture of tendons, ligaments, menisci or cartilage.*"

Clause 4(1) of the *Motor Vehicle Injuries Regulation 2017 (MAIR)* provides that an injury to the 'spinal nerve root that manifests in neurological signs (other than radiculopathy)' is included in the definition of 'soft tissue injury' and is, therefore, also a Threshold injury.

These Guidelines explain what the terms in the definition of threshold physical injury mean.

Connective tissue that supports or surrounds

- **Muscles** – This is the term medically known as endomysium and is the connective tissue that surrounds each muscle fibre (cell). The perimysium encircles a group of muscle fibres, forming a fascicle. The epimysium encircles all the fascicles to form a complete muscle.
- **Tendons** – This is the term used for ligaments and tendons which are made of dense regular connective tissue. These consist of higher density collagen fibres. These dense regular connective tissue contain elastic tissue and collagen fibres allowing the ligament to return to its original length after stretching.
- **Menisci** – This is the term for the connective tissue that provide support to the knee located between the heads of the femur and the tibia are the medial meniscus and the lateral meniscus. These connective tissues are dense and fibrous connecting the joint spaces between the bones.
- **Cartilage** – This is the term used for connective tissue which is a firm and gelated in nature for the purpose of being rigid and to resist compression.
- **Fascia** – This is the term used for the layer of dense fibrous connective tissue which surrounds individual muscles and also divides into groups of muscles. This type of connective tissue has a high density of elastin fibre for extensibility or resilience.
- **Fibrous tissue** – This is the term used for connective tissue that provides support and framework for the human body. It is comprised of fibrous proteins and non-fibrous ground substance which alters depending on its function.
- **Fat** – This term is used for loose connective tissue which is called adipose tissue (body fat). The purpose is to allow water, salts and other nutrients to diffuse into cells and tissues. The main purpose is to store energy in the form of lipids to cushion and insulate the body.
- **Blood vessels** – This is the term used for connective tissue called areolar tissue. This type of connective tissue is distributed in a random web-like fashion filling the spaces of the muscle fibres with blood and lymph vessels to support the organs.
- **Synovial membranes** – This term is used to describe the synovial tissue which is a thin and loose vascular connective tissue which makes up the membranes surrounding the joints and sheaths protecting the tendons.

Complete or partial rupture of

- **Tendons** – Tendons are tough bands of tissue that attach your muscles to your bones. A tear is usually caused by an injury or an increase in pressure on the tendon during a sporting activity or a fall. A ruptured tendon is when the fibrous tissue that attaches the muscle to the bone tear or rupture. A complete rupture means the fibrous tissue is torn and a partial rupture is when the tendon is partially ruptured from your muscles to your bones.
- **Ligaments** – A ligament tear may be partial or complete and the tear is graded by its severity. A Grade 1 tear occurs when there is a microtear and stretching with the ligament integrity being intact. A Grade 2 occurs when there is a partial tear with some joint looseness. A Grade 3 tear occurs when there is a complete rupture disrupting the joint function and stability.
- **Menisci** – A complete or partial rupture of menisci occurs when a person twists or rotates his or her upper leg while the foot remains planted, can occur from repeated or prolonged squatting and can also be degenerative or traumatic. The tears can range in size and severity. The meniscus can be split in half or ripped and a complete rupture means the thread is hanging from the knee joint.
- **Cartilage** – A complete or rupture of cartilage can occur after traumatic injuries or as a result of arthritis or over gradual use and wear and tear. A complete rupture will require surgical repair because cartilage does not heal itself well.

Injury to spinal nerve root

This injury occurs when the nerve roots become compressed by a bony growth from a vertebrae or the slipping of other vertebrae damaging the nerves. When this happens the nerve root becomes injured and radiculopathy occurs. Radiculopathy is caused by the pinching of nerve roots of the spinal column.

Neurological signs other than radiculopathy

Neuropathy is damage or malfunction of the peripheral nerves and encompasses a wider array of issues caused by nerve damage.

Myelopathy is compression of the spinal cord itself and sometimes accompanies radiculopathy.

Examples of physical injuries which are not within the definition of soft tissue injury

An injury is not a threshold injury when it does not meet the criteria for soft tissue injury. Examples of non-threshold physical injuries may include fractures, nerve injuries, complete or partial rupture of a tendon, cartilage, meniscus or ligament; or damage to the spinal nerve root that meets the criteria for radiculopathy.

AUTHORS



Helen Huang **Special Counsel**
helen.huang@mccabes.com.au
+61 2 8231 6267



Peter Hunt **Principal**
peter.hunt@mccabes.com.au
+61 2 8231 6284
+61 414 425 879