

**2SSB 5454** - H COMM AMD

By Committee on Appropriations

**ADOPTED 04/07/2023**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 51.08.142 and 2020 c 234 s 1 are each amended to  
4 read as follows:

5 (1) Except as provided in (~~subsection~~) subsections (2) and (3)  
6 of this section, the department shall adopt a rule pursuant to  
7 chapter 34.05 RCW that claims based on mental conditions or mental  
8 disabilities caused by stress do not fall within the definition of  
9 occupational disease in RCW 51.08.140.

10 (2)(a) Except as provided in (b) and (c) of this subsection, the  
11 rule adopted under subsection (1) of this section shall not apply to  
12 occupational disease claims resulting from posttraumatic stress  
13 disorders of firefighters as defined in RCW 41.26.030(17) (a), (b),  
14 (c), and (h) and firefighters, including supervisors, employed on a  
15 full-time, fully compensated basis as a firefighter of a private  
16 sector employer's fire department that includes over fifty such  
17 firefighters, and law enforcement officers as defined in RCW  
18 41.26.030(19) (b), (c), and (e), and public safety telecommunicators  
19 who receive calls for assistance and dispatch emergency services.

20 (b) For firefighters as defined in RCW 41.26.030(17) (a), (b),  
21 (c), and (h) and firefighters, including supervisors, employed on a  
22 full-time, fully compensated basis as a firefighter of a private  
23 sector employer's fire department that includes over fifty such  
24 firefighters, and law enforcement officers as defined in RCW  
25 41.26.030(19) (b), (c), and (e) hired after June 7, 2018, and public  
26 safety telecommunicators hired after June 11, 2020, (a) of this  
27 subsection only applies if the firefighter or law enforcement officer  
28 or public safety telecommunicators, as a condition of employment, has  
29 submitted to a psychological examination administered by a  
30 psychiatrist licensed in the state of Washington under chapter 18.71  
31 RCW or a psychologist licensed in the state of Washington under  
32 chapter 18.83 RCW that ruled out the presence of posttraumatic stress

1 disorder from preemployment exposures. If the employer does not  
2 provide the psychological examination, (a) of this subsection  
3 applies.

4 (c) Posttraumatic stress disorder for purposes of (~~this~~  
5 ~~subsection~~) subsections (2) and (3) of this section is not  
6 considered an occupational disease if the disorder is directly  
7 attributed to disciplinary action, work evaluation, job transfer,  
8 layoff, demotion, termination, or similar action taken in good faith  
9 by an employer.

10 (d) "Public safety telecommunicators" means individuals who  
11 receive and respond to telephone or other electronic requests for  
12 emergency assistance, such as law enforcement, fire, and medical  
13 services, and dispatch appropriate emergency responders.

14 (3)(a) Except as provided in this subsection, the rule adopted  
15 under subsection (1) of this section shall not apply to occupational  
16 disease claims resulting from posttraumatic stress disorders of  
17 direct care registered nurses as defined in section 2 of this act.

18 (b) The limitation in subsection (2)(c) of this section also  
19 applies to this subsection (3).

20 (c) This subsection (3) applies only to a direct care registered  
21 nurse who has posttraumatic stress disorder that develops or  
22 manifests itself after the individual has been employed on a fully  
23 compensated basis as a direct care registered nurse in Washington  
24 state for at least 90 consecutive days.

25 NEW SECTION. Sec. 2. A new section is added to chapter 51.32  
26 RCW to read as follows:

27 (1) In the case of direct care registered nurses covered under  
28 this title who are employed on a fully compensated basis, there  
29 exists a prima facie presumption that posttraumatic stress disorder  
30 is an occupational disease under RCW 51.08.140. This section applies  
31 only to a direct care registered nurse who has posttraumatic stress  
32 disorder that develops or manifests itself after the individual has  
33 been employed on a fully compensated basis as a direct care  
34 registered nurse in Washington state for at least 90 consecutive  
35 days.

36 (2) The presumption may be rebutted by a preponderance of the  
37 evidence.

38 (3) The presumption extends to a claimant following termination  
39 of employment for a period of three calendar months for each year the

1 claimant was a direct care registered nurse employed on a fully  
2 compensated basis, but may not extend more than 60 months following  
3 the last date of employment.

4 (4) (a) When a determination involving the presumption established  
5 under this section is appealed to the board of industrial insurance  
6 appeals and the final decision allows the claim for benefits, the  
7 board of industrial insurance appeals shall order that all reasonable  
8 costs of the appeal, including attorneys' fees and witness fees, be  
9 paid to the claimant or his or her beneficiary by the opposing party.

10 (b) When determination involving the presumption established  
11 under this section is appealed to any court and the final decision  
12 allows the claim for benefits, the court shall order that all  
13 reasonable costs of the appeal, including attorneys' fees and witness  
14 fees, be paid to the claimant or his or her beneficiary by the  
15 opposing party.

16 (c) When reasonable costs of the appeal must be paid by the  
17 department under this section in a state fund case, the costs shall  
18 be paid from the accident fund and charged to the costs of the claim.

19 (5) For purposes of this section, "direct care registered nurse"  
20 means an individual licensed as a nurse under chapter 18.79 RCW who  
21 provides direct care to patients.

22 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024."

23 Correct the title.

EFFECT: Creates a rebuttable presumption that posttraumatic stress disorder is an occupational disease for fully compensated direct care registered nurses employed in the state for at least 90 consecutive days. Provides that the presumption may be rebutted by a preponderance of the evidence. Provides that the cost of appeals must be paid to the claimant when a final decision on appeal allows the claim for benefits. Specifies that when the department is required to pay for costs of the appeal in a state fund case, the costs must be paid from the accident fund and charged to the costs of the claim.

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