

**2SSB 5454** - H COMM AMD

By Committee on Labor & Workplace Standards

**NOT 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

1 chapter 18.83 RCW that ruled out the presence of posttraumatic stress  
2 disorder from preemployment exposures. If the employer does not  
3 provide the psychological examination, (a) of this subsection  
4 applies.

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

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

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

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

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

23 (1) In the case of direct care registered nurses covered under  
24 this title who are employed on a fully compensated basis, there  
25 exists a prima facie presumption that posttraumatic stress disorder  
26 is an occupational disease under RCW 51.08.140.

27 (2) The presumption may be rebutted by a preponderance of the  
28 evidence.

29 (3) The presumption extends to a claimant following termination  
30 of employment for a period of three calendar months for each year the  
31 claimant was a direct care registered nurse employed on a fully  
32 compensated basis, but may not extend more than 60 months following  
33 the last date of employment.

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

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

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

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

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

14 Correct the title.

EFFECT: Creates a rebuttable presumption that PTSD is an occupational disease for direct care registered nurses, and 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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