

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5454

68th Legislature
2023 Regular Session

Passed by the Senate April 18, 2023
Yeas 30 Nays 18

President of the Senate

Passed by the House April 7, 2023
Yeas 57 Nays 40

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5454** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5454

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Senate Ways & Means (originally sponsored by Senators Cleveland, Robinson, King, Keiser, Van De Wege, Conway, Kuderer, Lias, Nguyen, Shewmake, Stanford, and Valdez)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to industrial insurance coverage for
2 posttraumatic stress disorders affecting registered nurses; amending
3 RCW 51.08.142; adding a new section to chapter 51.32 RCW; and
4 providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 51.08.142 and 2020 c 234 s 1 are each amended to
7 read as follows:

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

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

1 41.26.030(19) (b), (c), and (e), and public safety telecommunicators
2 who receive calls for assistance and dispatch emergency services.

3 (b) For firefighters as defined in RCW 41.26.030(17) (a), (b),
4 (c), and (h) and firefighters, including supervisors, employed on a
5 full-time, fully compensated basis as a firefighter of a private
6 sector employer's fire department that includes over fifty such
7 firefighters, and law enforcement officers as defined in RCW
8 41.26.030(19) (b), (c), and (e) hired after June 7, 2018, and public
9 safety telecommunicators hired after June 11, 2020, (a) of this
10 subsection only applies if the firefighter or law enforcement officer
11 or public safety telecommunicators, as a condition of employment, has
12 submitted to a psychological examination administered by a
13 psychiatrist licensed in the state of Washington under chapter 18.71
14 RCW or a psychologist licensed in the state of Washington under
15 chapter 18.83 RCW that ruled out the presence of posttraumatic stress
16 disorder from preemployment exposures. If the employer does not
17 provide the psychological examination, (a) of this subsection
18 applies.

19 (c) Posttraumatic stress disorder for purposes of (~~this~~
20 ~~subsection~~) subsections (2) and (3) of this section is not
21 considered an occupational disease if the disorder is directly
22 attributed to disciplinary action, work evaluation, job transfer,
23 layoff, demotion, termination, or similar action taken in good faith
24 by an employer.

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

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

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

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

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

3 (1) In the case of direct care registered nurses covered under
4 this title who are employed on a fully compensated basis, there
5 exists a prima facie presumption that posttraumatic stress disorder
6 is an occupational disease under RCW 51.08.140. This section applies
7 only to a direct care registered nurse who has posttraumatic stress
8 disorder that develops or manifests itself after the individual has
9 been employed on a fully compensated basis as a direct care
10 registered nurse in Washington state for at least 90 consecutive
11 days.

12 (2) The presumption may be rebutted by a preponderance of the
13 evidence.

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

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

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

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

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

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

--- END ---