
**Labor & Workplace Standards
Committee**

2SSB 5454

Brief Description: Concerning industrial insurance coverage for posttraumatic stress disorders affecting registered nurses.

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

Brief Summary of Second Substitute Bill

- Provides that the rule prohibiting occupational disease claims for mental health conditions caused by stress does not apply to direct care registered nurses for post-traumatic stress disorder (PTSD), when the PTSD manifests after the individual has been employed on a fully compensated basis as a direct care registered nurse in the state for at least 90 consecutive days.

Hearing Date: 3/17/23

Staff: Trudes Tango (786-7384).

Background:

Workers' Compensation Coverage for Mental Health Conditions.

Under the state's industrial insurance (workers' compensation) laws, administered by the Department of Labor and Industries (Department), a worker who, in the course of employment, is injured or suffers disability from an occupational disease, is entitled to certain benefits. An occupational disease is one that arises naturally and proximately out of employment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The Department was required to adopt a rule establishing that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease. Examples in the rule of conditions caused by stress that do not fall within occupational disease include, among other things, those conditions and disabilities resulting from: (a) changes in employment duties; (b) conflicts with a supervisor or relationships with coworkers or the public; (c) work load pressures; (d) subjective perceptions of employment conditions or environment; and (e) fear of exposure to chemicals, radiation biohazards, or other perceived hazards.

Stress resulting from exposure to a single traumatic event, such as actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury, may be considered an industrial injury. The worker must have been exposed to the event either by: (1) directly experiencing the event; (2) witnessing, in person, the event as it occurred to others; or (3) extreme exposure to aversive details of the event. Repeated exposure to traumatic events, none of which are a single traumatic event, is not an industrial injury or an occupational disease. However, a single traumatic event that occurs within a series of exposures may be considered an industrial injury.

Presumption for Certain First Responders.

The Department's rule does not apply to occupational disease claims resulting from post-traumatic stress disorders (PTSD) of certain firefighters, law enforcement officers, and public safety telecommunicators who receive calls for assistance and dispatch emergency services (dispatchers). For those workers, there is a presumption that PTSD is an occupational disease if certain conditions are met. If the firefighter, law enforcement officer, or dispatcher was hired after a certain date, they must have submitted to a psychological examination that ruled out the presence of PTSD from preemployment exposures, if the employer provided such an examination. The firefighter, law enforcement officer, or dispatcher must also have served for at least 10 years before the PTSD develops. The presumption may be rebutted by a preponderance of the evidence.

The worker's PTSD is not considered an occupational disease if it is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer.

Summary of Bill:

The rule prohibiting occupational disease claims for mental health conditions caused by stress does not apply to occupational disease claims of direct care registered nurses for PTSD. This exception applies to direct care registered nurses who have PTSD that develops or manifests after the individual has been employed on a fully compensated basis as a direct care registered nurse in the state for at least 90 consecutive days.

The PTSD is not considered an occupational disease if it is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2024.