

**WSR 22-23-145**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed November 22, 2022, 8:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-15-091.

Title of Rule and Other Identifying Information: Presumptive coverage of posttraumatic stress disorder (PTSD) as an occupational disease. WAC 296-14-300 Mental condition/mental disabilities.

Hearing Location(s): On January 13, 2023, at 9:00 a.m. Join Zoom meeting at <https://lni-wa-gov.zoom.us/j/9361655337>, Meeting ID: 936 165 5337; join by phone +1 253 215 8782 US (Tacoma). Find your local number <https://lni-wa-gov.zoom.us/j/kdFrdf0fg>. The virtual meeting starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: March 21, 2023.

Submit Written Comments to: Jordan Ely, Department of Labor and Industries (L&I), Insurance Services, Legal Services, P.O. Box 44270, Olympia, WA 98504-4270, email [Jordan.Ely@Lni.wa.gov](mailto:Jordan.Ely@Lni.wa.gov), fax 360-902-5029, by January 13, 2023, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Nathalie Penberthy, phone 360-902-4252, fax 360-902-6509, TTY 360-902-4252, email [Nathalie.Penberthy@Lni.wa.gov](mailto:Nathalie.Penberthy@Lni.wa.gov), by January 6, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Based on legislation passed in 2018 and 2020, this rule making proposes to amend WAC 296-14-300 Mental condition/mental disabilities. WAC 296-14-300 provides for coverage of mental conditions or mental disabilities that specify pain primarily as a psychiatric symptom or that are characterized by excessive or abnormal thoughts, feelings, behaviors, or neurological symptoms that are not clinically related to occupational exposure. PTSD qualifies as such a medical condition and is covered as an occupational disease for certain industries.

Under legislation passed in 2018 and 2019, certain firefighters and law enforcement officers were added to the presumption that PTSD is an occupational disease as provided by RCW 51.08.142 and 51.32.185. For public safety telecommunicators, PTSD may be considered an occupational disease, as provided by RCW 51.08.142. This rule making adds those specified industries and presumptions into department rules on industrial insurance coverage.

Reasons Supporting Proposal: Legislation passed during the 2018 and 2020 sessions (chapter 264, Laws of 2018, SSB 6214 and chapter 234, Laws of 2020, SHB 2758) resulted in updates to RCW 51.08.142 and 51.32.185, and added a new section to chapter 51.08 RCW. This rule making proposes to amend existing rules conflicting with the law and clarify coverage of PTSD under workers' compensation. SSB 6214 provides a prima facie presumption for certain firefighters and law enforcement officers covered under workers' compensation for occupational disease PTSD. SHB 2758 added public safety telecommunicators as a job class where PTSD may be considered as an occupational disease.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, 51.08.142, 51.32.185.

Statute Being Implemented: RCW 51.08.142, 51.32.185.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Jordan Ely, Tumwater, Washington, 360-902-4616; Implementation: Debra Hatzialexiou, Tumwater, Washington, 360-902-6695; and Enforcement: Mike Ratko, Tumwater, Washington, 360-902-4997.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempt under RCW 34.05.328 (5)(b)(iii) because the rule is adopting, without material change, language from RCW 51.08.142 and 51.32.185, as amended by SSB 6214 (2018) and SHB 2758 (2020).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of exemptions: The rule making is fully exempt from analysis under this section because the rule proposes to adopt, without material change, language from RCW 51.08.142 and 51.32.185, as amended by SSB 6214 (2018) and SHB 2758 (2020) under RCW 34.05.310 (4)(c).

Scope of exemption for rule proposal:

Is fully exempt.

November 22, 2022  
Joel Sacks  
Director

**OTS-4168.3**

AMENDATORY SECTION (Amending WSR 15-19-139, filed 9/22/15, effective 10/23/15)

**WAC 296-14-300 Mental condition/mental disabilities.** (1) Claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of an occupational disease (~~in RCW 51.08.140~~).

Examples of mental conditions or mental disabilities caused by stress that do not fall within occupational disease shall include, but are not limited to, those conditions and disabilities resulting from:

- (a) Change of employment duties;
- (b) Conflicts with a supervisor;
- (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;
- (d) Relationships with supervisors, coworkers, or the public;
- (e) Specific or general job dissatisfaction;

- (f) Work load pressures;
  - (g) Subjective perceptions of employment conditions or environment;
  - (h) Loss of job or demotion for whatever reason;
  - (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
  - (j) Objective or subjective stresses of employment;
  - (k) Personnel decisions;
  - (l) Actual, perceived, or anticipated financial reversals or difficulties occurring to the businesses of self-employed individuals or corporate officers.
- (2) (a) Stress resulting from exposure to a single traumatic event will be adjudicated as an industrial injury. See RCW 51.08.100.
- (b) Examples of single traumatic events include: Actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury.
- (c) These exposures must occur in one of the following ways:
- (i) Directly experiencing the traumatic event;
  - (ii) Witnessing, in person, the event as it occurred to others;
- or
- (iii) Extreme exposure to aversive details of the traumatic event.
- (d) Repeated exposure to traumatic events, none of which are a single traumatic event as defined in subsection (2) (b) and (c) of this section, is not an industrial injury (see RCW 51.08.100) or an occupational disease (see RCW 51.08.142). A single traumatic event as defined in subsection (2) (b) and (c) of this section that occurs within a series of exposures will be adjudicated as an industrial injury (see RCW 51.08.100).
- (3) For certain firefighters and law enforcement officers, there is a presumption that posttraumatic stress disorder (PTSD) is an occupational disease as provided by RCW 51.08.142 and 51.32.185.
- (4) For public safety telecommunicators, PTSD may be considered an occupational disease as provided by RCW 51.08.142.
- (5) Mental conditions or mental disabilities that specify pain primarily as a psychiatric symptom (e.g., somatic symptom disorder, with predominant pain), or that are characterized by excessive or abnormal thoughts, feelings, behaviors or neurological symptoms (e.g., conversion disorder, factitious disorder) are not clinically related to occupational exposure.

[Statutory Authority: RCW 51.04.020, 51.04.030, and 51.08.142. WSR 15-19-139, § 296-14-300, filed 9/22/15, effective 10/23/15. Statutory Authority: Chapters 51.08 and 51.32 RCW. WSR 88-14-011 (Order 88-13), § 296-14-300, filed 6/24/88.]