

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION INFORMATION PROVIDED BY ATTORNEY MIKE DRYDEN

Attorney Mike Dryden was guest speaker at the recent Pennsylvania Legislative Federation Meeting and presented his experiences and explained the processes of accessing benefits under the recently passed Pennsylvania Fire Fighter Cancer Presumption Act.

This is an edited version of a court steno transcript of this presentation.

You may contact Attorney Dryden for further information on Cancer Presumption and other Workers comp related issues, call toll free at 1-886-413-2667 or 215-656-3645. You may also contact him by e-mail at mdryden@wwdlaw.com or visit his website at wwdlaw.com.



Michael G. Dryden

Attorney Mike Dryden was introduced by Tom Savage, First VP of the Federation who explained that Dryden is chair of the workers' compensation department with the law firm of Willig, Williams and Davidson. He supervises handling workers' compensation matters; and is also active in the firm's management of Heart and Lung Act and Act 534 cases throughout Pennsylvania. It includes occupational disease, claims for cancer, heart disease and toxic exposures. He also trains union leadership on issues involving injured members and conducts educational seminars for union stewards. Mike has been very active in helping firefighters and others in workers' comp claims.

Attorney Dryden said our first topic is cancer presumption. The goal of what we try to do at these Cancer Presumptive/Workers' Compensation seminars is to have you leave with a basic understanding of the workers' compensation law as it pertains to presumption, and particularly today, we're going to talk a lot about cancer. There's a handout that we put out that you can follow along with. This is sort of a basic outline that I'll be following.

It initially starts out just stating presumptions and overview and what is a presumption under the Pennsylvania Workers' Compensation Act. Presumptions are particularly important to the volunteer firefighting community because, the reason volunteer firefighters get workers' compensation when they're injured doing the great work they do is based on a presumption in the workers' compensation law.

Most volunteers don't get workers' compensation. If you volunteer to help your neighbor fix the window and you're hurt volunteering doing that type of work, you don't get workers' compensation. If you're a nurse and you volunteer at some local chapter, a place that provides free medical care and you're hurt there, you don't get workers' compensation. But, the Pennsylvania Workers' Compensation Act has an irrebuttable presumption in favor of volunteer firefighters. What that means is, it's not up for dispute in the law, if a volunteer firefighter is hurt in the performance of his duties, he has a right to make a claim under the workers' compensation law. It's irrebuttable.

What we're going to talk about today is a different type of presumption, a rebuttable presumption. Presumptions that are rebuttable provide an evidentiary advantage. We're going to talk about occupational diseases. There is a list of diseases where this evidentiary advantage, or a presumption, is provided for certain groups of work. The bulk of our time is going to be talking about cancer and the presumption that's been hard-fought and won for career and volunteer firefighters in Pennsylvania, now the workers' comp law, dealing with a presumption in favor of firefighters who can meet certain conditions that we will talk about. Then, if they're diagnosed with cancer, it's presumed to be work related.

To go back to the overview, because it's a rebuttable presumption, it doesn't end the story. It's not just if you meet these certain conditions, and then you have cancer you get the benefit. It's rebuttable. The municipalities can show up, and will show up to defend themselves on cases brought for cancer, or any other disease, by the firefighter that we allege contracted it due to his service.

I know, as I talked to more and more of your membership, there's a lot of fellows who have been on the internet and looked at the law and reading some of the legislation. So, some of what we do is try to point those people, who like a little boring reading, to spots in the law where these things exist.

Continued on Page 98

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION REPORT *from Page 96*

The presumption that's in favor of firefighters and other groups of employees that get listed is actually found in two sections.

You have to apply two sections of the law. Section 301(e) is actually where the presumption is discussed and described, and 301(e) provides a presumption for occupational diseases that an employee suffers that arise out of and in the course of employment in certain specific listed groups of employees and for certain specific diseases. The diseases that are covered are found in Section 108 of the Pennsylvania Workers' Compensation Act.

What we're going to talk a great deal about is Section 108(r) that deals with cancer. But, as an example, for anybody who's into boring reading about occupational diseases, you can have an occupational disease from poisoning by arsenic, lead, mercury, magnesium, phosphorous, carbon monoxide, hydrocarbon distillates, if you're employed in those industries, The law break them down; that's the point of me reading all this.

The ones that we are going to talk mostly about that apply to firefighters are regarding the heart, the lungs, Hepatitis C and cancer. The big point is that the presumption can be rebutted. As leaders in the volunteer fire community, you're going to have people come to you and say, I was just diagnosed, or I know that John Smith was just diagnosed with cancer and he used to run with us and fought a lot of fires with us. How does this work? I'm getting a variety of responses from people who call on the phone from what they get from their volunteer fire companies.

Some volunteer fire companies tell them it's a slam dunk. Cancer, he fought fires, he has the right to benefits. Other people are telling them it was too long ago and you can't do it, or there are other requirements in the law that somehow or another don't apply to him. So, when we go through this, the thing you have to take back, at least at this early stage, just because there's a presumption doesn't mean they're going to get the benefit. Everybody should try to get the benefit; should explore it, because the law is pretty wide open on what a firefighter can claim with regard to cancer, particularly.

The law, as amended, in my opinion, it's the best presumptive legislation put in the law in this country. Most states have specific cancers that they will list, and it has specific time parameters for those cancers that you have to fit within. And if you don't fit within them, you don't have a right to bring a claim. That's sort of what we're talking about in this early phase; do you have a right to bring a claim? Not, are you going to win or what do we need to do to win; but, who can bring a claim.

Prior to the passage of this law, for firefighters diagnosed with cancer, the way we did it was, we used a portion of Section 108 of the law dealing with asbestos and even some of the other chemicals that I referenced, carbon monoxide and things like that; trying to say that the industry that you guys were in exposed you to these specific chemicals, and the cancer you had was due to that exposure.

The problem with that and the difficulty in bringing those cases is, for example, take asbestos. Asbestos generally is thought to involve lung cancer as the primary cancer you're going to get from asbestos exposure. There's some studies that suggest colon cancer, but most of those studies have been debunked over the years. So if you had a firefighter with colon cancer, it would be very, very difficult to win that case pointing to asbestos; when, in fact, there are many other carcinogens you come in contact with in your service that are related to colon cancer.

So, because of that, the volunteer and career firefighters got together and, about 25 years ago, started pushing a boulder up a hill that finally has worked. And now there's a presumption that firefighters, who are found to have cancer after a certain amount of years of service and can establish certain exposures, that that disease is thought to be a compensable disease.

When you're talking to your membership and a guy comes up and says, I have cancer; what can I expect, what can I do? I think the best that you can do, like I tell the career firefighters in the unions that I represent, is to tell them to explore it. Tell them they have to talk to somebody who knows what they're doing. They can call me. . They don't even have to give me their real name. We'll explain to them the lay of the land and how it works. I'm hearing that people are being told yes or no by folks at their volunteer fire companies. I don't think that's the right thing to do.

Continued on Page 100

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION REPORT *from Page 98*

If you guys were a union, you could be sued. That's the part of my speech that I don't have to say here; that I can talk to the union leadership about giving bad advice or sending an e-mail that isn't accurate and how that could impact the union's liability to their member who acted on that bad advice. You guys aren't in that boat, but you still probably want to get it right.

Even though the cancer is now an occupational disease for firefighters, every municipality that I've come in contact with is going to show up and mount a defense because it is a rebuttable presumption. It's not an irrebuttable presumption.

So, going forward, in looking at the diseases that firefighters are covered by let's talk a little bit about asbestosis and asbestos-related cancer. That's Section 108(l). In most of the cases that I have won regarding asbestos for firefighters and for other groups of employees, they'll find fibers in the lungs. You get something called pleural thickening. When fellows have asbestos-related disease, it's pretty obvious that they have it.

Mesothelioma, or asbestos-related cancer, is a relatively obvious thing. My focus here is to try to give you guys a baseline to work off of. If a member comes to you and says, I have some form of an asbestos-related disease, then they actually should be looking to make a claim. We'll have to talk to them about what they do for their occupation in addition to being a volunteer firefighter, but asbestos is something that, generally, we can point to as coming from your exposures in the fire service. They also may have a claim against their employer; what they do for their job.

Hepatitis C is found in Section 108(m.1) of the workers' comp law; another hard fight that was brought by the career and volunteer firefighters together. Hepatitis C is a good example; an illustration of how the presumption sort of, at times, has been ignored by the fire service, both career and volunteer. There are very few Hepatitis C cases that have gone through the courts since that was enacted, and most of them I know of are from the City of Philadelphia because I've tried them. But there were statistics that I've been given; that since that was passed, there are only a few dozen of Hepatitis C cases that have gone down the road.

I know there's reasons for that. I've had discussions with firefighters in my office about things in their past when they were in the service; particularly, the Philippines. I've heard a lot of things about the Philippines what guys did in the Philippines and they didn't want their wife or daughter or anybody else to know what they did. Or guys who were in the Vietnam era who did some things they didn't want anybody to know that they did, so they walked away from claims. You know, I get that. I have a wife and daughter. Some of the stuff they told me I wouldn't want that to be out myself either.

But, if someone comes to you with Hepatitis C who has been in the fire service, they have the right to make a claim.

For those interested I have some copies of my cases that were just decided by the Supreme Court in October; the Kriebel case, City of Philadelphia versus Workers' Compensation Appeal Board (Kriebel). It's instructive because it shows how the presumption works. I'm going to do the best I can to explain how the presumption works and how the presumptive sections of the workers' compensation act apply to firefighters.

In that case, Mr. Kriebel was a City of Philadelphia firefighter; he was a Vietnam war veteran. He lived an exemplary life; married one woman; had a couple of kids, and served the City of Philadelphia for a long time. In his medical records, the city uncovered one piece of paper. They were this high off the floor; probably 24 inches of a stack of records that you get when you go through cases like this.

In his military records, there was one handwritten note from a naval hospital that said serum hepatitis dash drug usage 1969. They gave that to a guy who testified against Philadelphia firefighters in Hepatitis C cases; was not found credible in any of those cases. But in this case, a judge, who no longer is a judge, who was a Civil Service employee, was removed as a workers' compensation judge. I won't say anything more than that about him, but it gives you an idea of what type of judge at least the state thought he was.

Continued on Page 102

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION REPORT *from Page 100*

He decided that based on that one note, that this doctor's opinion was his Hepatitis C didn't come from firefighting all these years -- I think they called it like swoop and scoop, or swoop and run; where they throw a large part of his career if -- They didn't have good paramedics there in the city, so if somebody was hurt and banged up in a car accident or was bleeding all over themselves, they just grab them and threw them in something and took off in an ambulance; blood and bodily fluids all over him for long stretches of his career, which the record indicates.

They used that one piece of paper. The doctor said it wasn't that; that serum hepatitis equals Hepatitis B, and Hepatitis B you get from injectable drug usage. So this guy was a junkie; was an injectable drug user when he was in Vietnam, and that's where he got Hepatitis C; he didn't get it from the city. This judge in Philadelphia believed that; a workers' comp judge.

I had that reversed by the Appeal Board. The lady was paid her benefits. The Commonwealth Court, a very conservative body these days, reversed the Appeal Board. And then we went to the Supreme Court that reversed the Commonwealth Court, so this lady now will get benefits for the rest of her life, because the Supreme Court confirmed that his Hepatitis C wasn't due to being an injectable drug user. It wasn't that this Army veteran; this career firefighter, father, husband, that he was an injectable drug user. It was that he served the city for as long as he did, and that's where he got it.

As much as the money is important, his widow felt vindicated. The things that she was most excited about were articles in the newspaper that explained what she went through and how it came out in favor of her husband and her husband's reputation.

But in that case, the instructive point, the learning piece for you guys, is that there's a very, very nice discussion about the presumption, how it works, and what you need to overcome it. It's in the context of Hepatitis C and we'll talk a great deal more about cancer today than Hepatitis C. That case is important because we're going to be pointing to it as we run these cases for cancer going forward in the months that come.

Heart and lung disease is Section 108(o) of the Pennsylvania Workers' Compensation Law. One of the things about this I would try to point out briefly, before we get to the cancer, is COPD. I ran a hearing loss program for Local 22 in Philadelphia and for Erie firefighters, and we tested probably 1100 firefighters for hearing loss; brought well over a hundred claims for occupational hearing loss.

As part of those cases, I would get the firefighter's personnel file. In the personnel files of, say 70 percent of those guys was COPD, COPD, COPD; time missed from COPD, chronic obstructive pulmonary disease. That's a lung disease. Not one of them had ever brought forward a case that COPD was due to their service as a firefighter. The law presumes that it is.

If you're an active firefighter and you have COPD, then that is a work-related condition, which can be very, very important to you, if that -- In your case as a volunteer, if that disease affects your ability to do your regular job and causes COPD, then the law says you're entitled to workers' compensation. A career firefighter loses his job because of COPD, he is entitled to workers' compensation for COPD.

Heart disease. Everyone looks at heart disease as a fire ground event where someone has a heart attack on the fire ground. And it is more than that. There are studies that talk about how the particulates in smoke and this constant stress of firefighting play a role in the development of arteriosclerosis; straight-up heart disease. You are at an increased risk for heart disease as a firefighter. And if, in fact, you are diagnosed with heart disease, (A), it is something you want to check because of the fire-ground stress that the firefighter is on; but (B), it can be a compensable disease under the Pennsylvania Workers' Compensation Act. In fact, it's presumed to be.

The municipality is going to have to show up with things. I've represented guys who, we were in a death struggle because the guy was 5' 7" and 315 pounds and retired two years ago and was a diabetic, and his brother and father both had a heart problem. They have ways they'll try to come fight you, but they have the burden of proving that it is not work related. With these rebuttable presumptions, if you fit, if you can meet the conditions; if you're a firefighter and you're diagnosed with COPD; if you're

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION REPORT from Page 102

a firefighter and you're active now and you have heart disease, it's presumed to be work related and the municipality has to show up and prove that it is not. So it's an evidentiary advantage to you in the Workers' Compensation Law that I think too few firefighters, career and volunteer, explore and take advantage of. The main topic for today is found in Section 108(r) of the Pennsylvania Workers' Compensation Act.

In Section 108(r) of the act, it provides a presumption for firefighters who are diagnosed with cancer. Now, there are time limitations for bringing these cases. I'll briefly talk about those. For heart or lung disease, the heart or lung disease has to show up within 300 weeks; just less than six years of the last time you fought a fire; of your last exposure to fire smoke; 300 weeks for heart or lung disease, 300 weeks for hepatitis. That's just less than six years.

So that's one of the most important things to take from this, is the window for qualification. The window for qualification doesn't run from when you were diagnosed or from today to when you were diagnosed. It's from when you were last exposed; when were you last in the fire; when were you last exposed to fire smoke; when were you last, maybe, exposed to diesel fuel emissions. Take that day and go 300 weeks. The heart disease, Hepatitis C and lung disease have to be diagnosed within that window. Did everybody get that? That's a question **I've been answering a lot. That's the window. From exposure to diagnosis has to be within 300 weeks.**

The same is true for cancer, if you want the presumption. Not **if** you want it. **If** you're entitled to it. Everybody will want it. So, from your last exposure to fire smoke til when you're diagnosed with cancer, that time slot can't be more than 300 weeks for you to have the presumption that the cancer is work related, assuming you can meet other things we'll talk about. Just from a timeliness standpoint, the window is 300 weeks.

Another great facet that I think is going to be the start of changing a lot of this occupational disease and legislation is that, our law, regarding 108(r), takes that 300-week time period and says, that's with the presumption. There's another 300 weeks to still bring the claim. So, between 300 and 600 weeks from last exposure, if you're diagnosed with cancer, you can still bring the claim, but you don't have a presumption.

I want to back up. When I talk about these week periods, this time slot, if it's more than 300 weeks -- Let's take heart disease. Say a guy last fought a fire on March 1st, 2006. March 1st, 2012, obviously, more than the 300 weeks have run. Now, more than 300 weeks have run, if he's diagnosed with heart disease today, he cannot bring a claim for occupational disease. The law bars it. Once you go beyond that 300 weeks, it's barred. You have no ability to bring a claim for heart disease, lung disease or hepatitis, if that disease comes more than 300 weeks from your last exposure.

With cancer, we've got an extra 300 weeks to bring the claim but without a presumption. So, for the first 300, you have your presumption. If that guy was diagnosed with cancer; last fought a fire March 1st, 2006; diagnosed with cancer today, he can bring a claim, but he does not have the presumption. Does everybody get that? Any questions so far? They're the windows that you have to work with, the 300 and 600-week windows.

The great thing about all of these conditions being listed now as occupational diseases in Section 108 is that, we now get something called the discovery rule. In Pennsylvania, if you're hurt on the job, you have 120 days from when you knew or should have known to provide notice of the injury to your employer; 120 days from when you knew or should have known the injury was work related to provide the information to your employer, in your case to the municipality, that the injury occurred and you believe it to be work related. Unless you know or reasonably should know, that clock never starts running.

For occupational disease cases, the doctor telling you that your cancer, your Hepatitis C, your heart disease or your lung disease is related to your service as a firefighter. If the municipality cannot establish that you were told more than 120 days ago that this disease is work related, then that clock

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION REPORT *from Page 104*

never begins to run. So because of the discovery rule applying to us, for these conditions, heart, lung, Hepatitis C and cancer, we can go back a ways.

I'm looking into cases now for people who last fought a fire in 1995, but were diagnosed with cancer in 2000. They still have a case. No doctor has yet told them that that's work related, so they still have a case because of the discovery rule. In your role as leadership in your volunteer fire companies, when you look at it, that window is all you really have to worry about, the window; last time you fought a fire to when you were diagnosed with any of these conditions. If it's under 300 weeks for all of them, they have the ability to make a claim, potentially, and they should explore it. If it's between 300 and 600 for cancer, they still have the ability to make a claim.

If your last exposure to fire smoke was more than 11 and a half years ago, you're barred. We fought hard to not have that being the case in the legislation. Many cancers have a latency period, which is how long it takes from parthenogenesis, when the cancer starts to when the cancer shows up. Many of them have a latency period of 20 years or more.

But, the legislature is the political body. We had much opposition but enough support to get what we got. It is, in my mind, the best cancer legislation in a law in the United States. Canada has a couple good ones, but Canada is a better place to live for the worker. None of us can pick up and move to Canada. We're working with what we're working with, and this law is a terrific law.

The last thing in time limitations deals with fatal claims. Fatal-claim benefits are benefits that go to dependents, either a spouse or children who are under 18 or in college up to age 24, should a firefighter pass away from his service or from one of these diseases.

Fatal claims have a hard statute. They have what's called a statute of repose. In other words, if you don't get your claim filed within that time period, you can never bring it, and that's three years from the date of death. And that's harsh in some instances. Governor Corbett signed this on July 7th, 2011 HB797 Now Act 46 of 2011. I was immediately called by widows who were three years and two weeks out, and you can't bring those cases. That wasn't amended. There's time limitations three years from passing to bring a fatal-claim case.

The point here for you as leadership is, if you have members who passed away and you think it might be from cancer, if it's under three years, their families still may have rights to significant benefits, and I'll talk about the available benefits in a minute. With all that said, I want to get to the particulars of what is involved in making a claim for cancer as a firefighter.

The page I'm on is the elements of a claim for cancer pursuant to Section 108(r). The first thing, obviously, is, the firefighter has to be diagnosed with cancer, and he has to have four or more years of continuous service as a firefighter. So, if you're a firefighter with two years of service and you're diagnosed with cancer, you cannot win the case through 108(r). You can't win the case through an occupational disease claim per 108(r).

If in your two years as a firefighter you were exposed to something in some very odd fire that the doctors are pointing to that specific event, there's another way to make the claim. But to use this section of the law, it's for firefighters with four or more years of continuous service who were diagnosed with cancer. It's important that it's any cancer. It's not limited. Most states have it limited to certain cancers.

Now, there are cancers we are seeing as we go through this that are popping up more than other cancers. There are studies that are done that have evaluated what cancers are and are not work related. One of my favorite studies, and I say that sarcastically, is from the National League of Cities. As a union lawyer, you can see the rough treatment this has gotten, and the National League of Cities would be the other side for me. These are people who do work for municipalities for Chambers of Commerce. They were asked to evaluate the literature and peer review studies dealing with firefighters and cancer. It produced this report that, in some, acknowledges that there's at least some relationship, or as they say a possible relationship, between bladder, brain, colon, Hodgkin's Lymphoma, kidney,

Continued on Page 108

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION REPORT from Page 106

malignant melanoma, multiple myeloma, non-Hodgkin's Lymphoma, testicular, thyroid and ureter cancers.

There's a chart where they go through the studies that they reviewed. For example take lung cancer. There's 13 studies, according to the National League of Cities--there's actually more--that have been done on lung cancer and the fire service. How many of those studies you think say that there's any connection at all between fire service and lung cancer, out of 13? One study. Twelve say none, but you always have to look deeper into anatomy studies. You have to look at what they're studying. Are they mortality studies? Many of the studies are mortality studies; how many people are passing away from that cancer; not the incidence of the cancer.

Then you also have to look at who commissioned the studies. The reason I bring that up, people come up and talk to you about whatever cancer they have; if it's cancer, tell them to explore it. If you're reading something that says lung cancer, there's one out of 13 studies you can't bring a case, we're still bringing those cases. I have won those cases for people before there even was a presumption in the face of whatever studies they could show up with. The key is to have people explore their rights. Give them information to educate them and to have them explore their rights.

You're going to hear a lot of stuff as people go through and more and more of these cases start getting published about specific types of cancer. Right now the leader in the clubhouse, so to say, of maybe over a hundred files have been opened for firefighters, career and volunteer, with cancer since July in my office and more in a couple of other law firms. Of that, 35 of them are prostate cancer cases.

The leading study out there right now is what they call a meta-analysis was done by a guy named LeMasters. Search the internet, put in LeMasters, meta-analysis, cancer, and firefighter in the computer and you'll get this stuff. It's LeMasters from the University of Cincinnati. What a meta-analysis is, they take all of the available studies and then they take all that data. If a hundred

firefighters were tested in this room; a thousand were tested in this one, and 5,000 were tested in another one, that's 6100 firefighters. They evaluate that data for the entire group. Do you all follow that, how it works?

The meta-analysis came up with three cancers that are probably or likely related to firefighting: testicular, multiple myeloma and prostate cancer. There are 11 cancers that are likely related, and there are other cancers that they say aren't related. Even in that, there are studies that say, like bladder cancer, is not related. Well, I've won two bladder cancer cases. I know there are studies dealing of San Francisco firefighters dealing with bladder cancer. So there are ways even outside of the meta-analysis.

But, for prostate cancer -- And the reason I stopped here when I do it, if you are a firefighter and you're not getting your PFA checked in your blood, you're a moron; a stone cold moron rolling the dice. There's just no new ways around it, because you're exposed to a carcinogen that, right now, 35 percent of the cancer cases I have are prostate cancer. It's a blood test.

One of the firefighters I represented was a chief in Philly, who's kind of a proxy older fella. No disrespect to any older fellas here. He was giving me a lot of gruff about me telling him that he needs to have his prostate regularly checked. He's never been sick. He gives me his whole story about the military and still runs and does all this stuff. I told him, look at these numbers. He's also the guy who told me that anybody who wore a Scott Pack when he was a firefighter--Now he's a completely different tune--but they used to call them girls. No offense to the ladies. So he's coming to it in a way that he's just asking for it.

If prostate cancer is caught, it's treated. Look at these studies on mortality studies on prostate cancer. You have that test and they catch it, they treat it and you live. If you don't have that test and it goes too long, you die. It's a simple blood test. So, telling you about your rights and telling you about what the rights are of your members who are diagnosed with cancer, things like that. Prostate cancer being the best example because of the numbers I see.

Continued on Page 110

FIRE FIGHTER CANCER PRESUMPTIVE/WORKERS' COMPENSATION REPORT from Page 108

Given what you're doing; given the service you provide, I feel it's incumbent upon me, and even when I'm doing the union meetings, go tell your doctor you're a firefighter. Take that meta-analysis to your family doctor so whatever checking has to be done is done. These days, if they catch it early, they can do amazing things. It's not like it was years ago. Too many guys that I'm now representing are calling me after they waited too long, and now we have big issues that they're facing that could cause it to be the end of their lives.

Part of understanding how to bring these cases is also how to understand how emphatic to be with your membership. They're probably your friends and family; people you're involved in a service with. Be strong and be direct and tell them how to get this checked out, because the numbers are significant; that they've increased -- Even this study from the National League of Cities, who, when they did these studies, they were hoping, hoping, hoping that they could produce a document that said there's no problem for cancer in the fire service. These cities want this stuff to come defend themselves from me and people like me. But even then, they couldn't do it.

Overall, there's an increased possibility of cancer in the fire service, which means, as leadership in the volunteer fire community, it's incumbent upon you guys to make sure the message gets out to be checked; to be tested regularly. That's my soap-box point on that regarding cancers.

Back to the cases. If a firefighter has his four years of service and he's diagnosed with any cancer, we have to establish that he had a cancer-free physical prior to diagnosis. That's not a hard element for us. I think of these cases in terms of hurdles. You have to jump over hurdles once you bring them. Proving that somebody had a cancer-free physical is not going to be too hard.

The learning point here is that, in the volunteer fire community, if people are getting a good physical from their family doctor, make sure

they're telling them they're a firefighter so any tests that need to be done have been done. Even later on, if there's a case, they can point to these physicals and say, I meet this element. I had physicals when I joined; every year, whatever it was, that were cancer-free. No one will lose this case because of that element; a cancer case. No one is going to be blocked because we're not going to be able to establish that, at some point in their life, they had a cancer-free physical before they were diagnosed.

They don't have to screen for everything. You don't have to go to the doctor and say, I'm a firefighter and I'm worried about this; I want to be tested nine ways from Sunday. If he looks at you and says there's no reason to have this test or that test, or anything more than the PSA, that's okay. That will be a cancer-free physical. You don't need a special physical to meet this requirement in the law.

Following Attorney Drydens' presentation a series of questions were raised and the discussion continued on specific issues that will be reported next month.

To be Continued . . .