

Proponent testimony on HB 330  
by Karen Turano  
on behalf of the Ohio Association of Professional Firefighters  
and the Ohio Association for Justice  
October 22, 2019

Chairman Brinkman, Vice Chair Antani, Ranking Member Boggs, and members of the Insurance Committee, thank you for allowing me to testify in support of House Bill 330.

My name is Karen Turano and I am a workers' compensation attorney practicing here in Columbus with the law firm of Connor, Kimmet & Hafenstein. I also have a personal connection to this legislation as my husband, Thad, is a Lt. with the Columbus Fire Department where he has been a firefighter since 2001. Prior to that date, he volunteered for New Concord Township and rode auxiliary for Columbus starting at age 16. He has 26 years of exposure.

I am testifying today on behalf of the Ohio Association for Professional Firefighters and the Ohio Association for Justice to express their support for House Bill 330 and to provide a legal and practical perspective on the workers' comp process that firefighters face. As I'll explain, I have extensive experience representing firefighters with their cancer claims, and have lived with them through the anguish of pursuing their claims as their health declines.

I represent almost 60 firefighters with occupational cancer. Under the presumptive statute, 4123.68(X) all but 4 have been contested claims. In most of these claims, the employer filed an appeal to the BWC allowance order.

Based on my experience representing these firefighters in hearing, employers have basically 2 approaches in fighting the claims. First, employers have argued that there are "other conditions" that have presented an extremely high risk for the development of the cancer and was probably a significant factor in the cause of progress on the cancer. Employers are using risk factors attempting to satisfy this element to rebut the presumption.

Here are some examples of what they have come up with:

- An Employer has asserted that a firefighter, with a 32 inch waist size and with a Body Mass Index of 25.8, that his "obesity" was the cause of his colon cancer
- The sun caused a firefighter's melanoma
- Family history is the source of his cancer. This is a particularly interesting argument when the firefighter's father was ALSO a firefighter, but that was not taken into consideration by the employer's medical report

- Second-hand smoke as a child
- For prostate cancer, BEING MALE was the cause of cancer. Being male is a requirement for being diagnosed with prostate cancer, women do not have prostates

Employers also argue 2(b) which states there is a preponderance of competent scientific evidence that exposure to the type of carcinogen alleged did not or could not have led to the cancer alleged. The problem with this is that the defense medical reports obtained by employers are not experts in occupational cancer. One example is from Dr. Erickson, who has provided many nonsensical reports for employers, who contends, for example, there was no scientific evidence to support that mantle cell lymphoma was linked to the firefighter occupation. On the contrary, LeMaster, NIOSH and numerous other studies have stated definitively that mantle cell lymphoma, which is a rare and typically fatal type of Non-Hodgkins' lymphoma, is statistically linked to the occupation of firefighting. Employers are using non-subject matter experts to review scientific data, and they routinely draw what are obvious incorrect conclusions.

I've filed 5 death claims this year and attended one funeral. This is a devastating personal journey to navigate with these firefighters. They are sitting across the table from their chief and co-worker who likely has similar exposures and risks. They often ask why is my claim being fought. I've talked with employer's attorneys and the main response I get is that they must defend the tax payer's dollar and each claim affects their premium. House Bill 330, which charges the cost of the cancer claims to the surplus, should eliminate the monetary incentive for employers to fight these claims. I do not believe it is the desire of these departments to fight their fellow firefighter on receiving medical benefits under a BWC claim. Based on my experience, I would expect that if the cost of a claim doesn't impact the employer, then they would not aggressively fight each and every claim.

Mr. Chairman, members, I respectfully request that these firefighter get the medical care and benefits that the presumptive statute intended.

Mr. Chairman, if you or other members have questions, I'll do my best to answer them.