

Dear Chair Spohnholz,

I received an invitation to testify regarding HB204 and proposed amendments. Please consider this letter my testimony but feel free to have your staff let me know if you would like me to appear by telephone to answer any questions.

First, I would like to make clear that while I have and continue to represent a number of individual firefighters in their workers' compensation claims and represent FF 1264 on general workers compensation issues, I am not representing any person or entity as a lobbyist on presumption issues. I would be glad to testify about my views as a person knowledgeable on WC and FF presumptive issues if it is of use to the legislature.

Regarding HB204 and SB131 generally, I believe it is appropriate to add breast cancer as an additional presumption cancer. The medical evidence I am aware of supports that addition. I previously represented Chief Cummings of Fairbanks in his claim for male breast cancer. While male breast cancer is very rare in the general population, his claim for compensation benefits was resolved favorably to his claim based on the medical evidence. The addition of breast cancer in the presumptive law would have helped the case advance without unnecessary litigation expense. In more simple terms, recognizing breast cancer as a known risk of firefighting would have avoided unnecessary delay and expense for Chief Cummings and his family and is medically appropriate. I thank you for your efforts to recognize the medical evidence on breast cancer for future firefighters.

I have no comments regarding proposed amendment 2, which adds additional firefighters to the presumptive legislation, because I have nothing particular to add about their comparative exposure to known carcinogens associated with these cancers.

Regarding proposed amendment 3 concerning medical examinations, I believe that the decision in Adamson v. MOA, 333 P.3d 5 (Alaska 2014) (attached) resolves the issue. In that opinion, the Alaska Supreme Court held that a firefighter need only show "substantial compliance" with the medical examination requirements. Adamson, 333 P.3d at 12-16. I worry that further action by the Alaska Legislature would cloud this result. More simply, the Alaska Supreme Court has already determined that a firefighter has only to show that he has substantially complied with the examination requirements to an extent that he likely did not have cancer when he was hired as a firefighter. At best the proposed amendment only codifies the current law. At worst it confuses the current law. Therefore, I do not believe that this amendment advances the goals of the firefighter presumptive law or general public policy.

Thank you in advance. Please let me know if any further testimony is needed on this issue and I would be glad to appear telephonically.

Eric Croft

