

# **Presumptive Cancer Legislation for Professional Fire Fighters:** *An Act of fairness*

## *Executive Summary* *September, 2004*

Everyone knows that fire fighting is a dangerous occupation. Fire fighters face a wide variety of hazards on the job, as they battle raging infernos, rescue people trapped in burning structures or respond to chemical fires and other emergencies. Sadly, these dangers make fire fighting among the most dangerous professions in Canada. Every year, fire fighters die in the line of duty as the result of facing these hazards.

Fire fighters are aware of these dangers from the time they first choose the profession. But there's another serious danger that fire fighters face on the job; one that is not as sudden or shocking as a fire-ground accident, but just as deadly... cancer.

In the course of their careers, fire fighters are exposed regularly to burning chemicals and other toxins. Everyday plastics and chemicals, when burning, combine to form complex and unknown chemical combinations. There are 70,000 toxic substances on file with the EPA in the United States. But in reality, when these toxins burn together, there are 70 million possible combinations - new and untested toxic chemicals that are created in a fire. Fire fighters routinely endure exposure to these burning toxins in the course of protecting the lives and property of their fellow citizens.

Even the best respiratory practices and protective equipment cannot guarantee that exposure will not occur in the midst of a blazing inferno. This is the nature of emergency response.

It used to be a sad secret among professional fire fighters, who watched shift-mates die one after another from brain cancer... or leukemia... or other cancers. In Winnipeg, there were five fire fighter funerals in 1998-1999; four of those fire fighters died from cancer. The oldest among them was just 53.

Finally, there is growing awareness and recognition in Canada of this deadly threat. In response to a landmark study that examined the mortality of Toronto fire fighters between the years 1954 and 1989, the Ontario government in 1999 enacted guidelines for handling fire fighters' brain cancer and leukemia claims before the province's Workplace Safety and Insurance Board. While this guideline stopped short of fully recognizing what the study actually said about the numerous cancers that fire fighters are suffering from, it was an important first step in the battle for fair compensation for the occupational diseases that fire fighters are dying from.

Fire fighters, using this study in combination with more recent research, have sought fair compensation for occupational cancers in provincial jurisdictions across Canada. In May

2002, the Manitoba government determined it could not ignore the evidence before it and enacted Canada's first presumptive cancer legislation for fire fighters.

This precedent-setting legislation declared that career if a career fire fighter suffers a brain cancer, kidney cancer, bladder cancer, leukemia or non-Hodgkins lymphoma, it is presumed to be the result of their occupation as long as they've been on the job a specified number of years. An accompanying regulation specified the minimum duration of employment in order to qualify for automatic compensation of each cancer, ranging from five years for leukemia to 20 years for kidney cancer and non-Hodgkins lymphoma.

Looking at the same evidence, the governments of Alberta, Saskatchewan and Nova Scotia followed suit within a year, enacting their own presumptive legislation. Legislative or regulatory initiatives to address the crisis of fire fighters and cancer are also ongoing in New Brunswick, Newfoundland and Labrador, Quebec and British Columbia.

### ***What is presumptive legislation?***

What is presumptive legislation? As its name implies, presumptive legislation presumes for the purpose of worker compensation that a fire fighter's brain cancer, for example, is the result of their employment as a career fire fighter, if they have been a fire fighter for a certain number of years.

Typically, presumptive legislation amends a province's workplace compensation legislation to state that a if a career fire fighter develops a certain form of cancer, it is *presumed* that the cancer is a direct result of their occupation as a fire fighter, and that compensation will be granted.

In the absence of presumptive legislation, the onus is on the worker to prove their illness is a result of their occupation. Presumptive legislation changes that onus; the claim is approved automatically if the appropriate criteria are met, unless the employer can demonstrate that the illness is not a result of the fire fighter's occupation.

Without presumptive legislation, a worker who contracts an illness as the result of their job must file a worker's compensation claim, and endure the uncertainties of the claim process. This system of claims and appeals can take years to produce a final decision. Even so, there is still no guarantee the worker's compensation claim system will recognize an occupational disease and award appropriate compensation. There are cases where a fire fighter who contracted cancer as the result of years of toxic exposures and filed a claim was asked, "At which fire did you contract this cancer?"

The latent nature of the disease poses other considerations. Many fire fighters who are currently battling cancer suffered their exposures decades ago, when less was known about the importance of respiratory and other protections and when protective equipment was built to lower standards than today. In some cases, individual fire departments didn't provide enough SCBAs to equip everyone at the scene of a fire; some were lucky to get one while others entered a fire without any respiratory protection. They may have made it

home safely at the end of their shift, week after week, month after month, not knowing the seeds of a brain cancer or a leukemia that developed 20 years later had been irrevocably planted.

Too often, fire fighters don't know what they're up against until it's too late. In Saskatoon, Sask. in the early 1980s, fire fighters responded to a fire at a landfill site. They were unaware that the University of Saskatchewan had dumped radioactive waste at the site, including carbon-14. Half of the fire fighters who fought the blaze have since died of cancer.

The same is true of a March, 1987 fire at a Kitchener, Ont. factory that manufactured a green Styrofoam product used for flower arrangements. Fire fighters at the scene reported a strange, rainbow-coloured smoke that attached itself to their skin. While there were no injuries or illnesses reported by fire fighters at the time of the fire, things began to go tragically wrong a short time afterward. Two years later, two of the fire fighters who responded to the call were diagnosed with primary liver cancer. This was only the sad beginning. In the next few years, bladder cancers, brain cancers and other diseases showed up among the fire fighters at the scene. A total of eight Kitchener fire fighters who responded to the scene have since died of cancer.

### ***Research and “statistical excesses”***

In the mid 1990s, professional fire fighters in Ontario approached the province's Industrial Disease Standards Panel (IDSP) and asked them to look at this threat. The result was a landmark mortality study of 5,000 Toronto fire fighters between the years 1954 and 1989. It confirmed what fire fighters already knew: that statistically, fire fighters develop certain cancers at a higher rate than other workers. Chief among these cancers are brain cancer, kidney cancer, colon cancer, bladder cancer, cancer of the urethra, leukemia and non-Hodgkins lymphoma.

More recently, Dr. Tee L. Guidotti, an epidemiologist with the George Washington University Medical Center, has provided research into the links between cancer and the profession of fire fighting. His March, 2002 report to the Worker's Compensation Board of Manitoba was a deciding factor in that province's decision to enact presumptive cancer legislation for its professional fire fighters.

More recently, Dr. Guidotti has authored a report for the British Columbia Professional Fire Fighters Association. This report, dated March, 2003 and titled *Evaluating the Association between Selected Cancers and Occupation as a Fire Fighter*, concludes that it is reasonable to adopt a policy of presumption for certain cancers among professional fire fighters.

### ***About this Document***

This document you are reading is designed to illustrate what a number of Canadian provinces have done or are doing in recognition of cancer as an occupational disease

among fire fighters; to show the proliferation of presumptive cancer legislation across Canada and highlight some of the research that has led to these legislative advances.

Ultimately, it's only fair that fire fighters and their survivors are compensated for cancers that they suffer as a direct result of their occupation. And that's why presumptive cancer legislation for fire fighters is... "an Act of fairness."