
“Barry Brady Act”



A Report with Recommendations on Tennessee Code Annotated 7-51-201 for Tennessee Municipalities, Revised 2023

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Introduction

In collaboration with the Tennessee Fire Service Coalition, the 111th Tennessee General Assembly passed HB 316/SB 1442 on May 2, 2019. Governor Bill Lee subsequently signed the legislation, and on July 1, 2019, Public Chapter 490, Acts of 2019, became effective. The legislation is codified in Tennessee Code Annotated (hereinafter “T.C.A.”) § 7-51-201(d). The legislation, known as the “Barry Brady Act” (hereinafter “the Act”), made Tennessee the 43rd state in the United States to enact such legislation. The Act was named for Captain Barry Brady, a retired fire captain from the Sparta, Tennessee Fire Department. Captain Brady was a dedicated fire service professional who fought a courageous battle with colon cancer. Captain Brady lost his battle with cancer but never lost his passion for the fire service or his brothers and sisters who do the job daily.

Summary

The Act became effective on July 1, 2019, after being passed unanimously in the Tennessee State House of Representatives (94-0 vote) and the Tennessee State Senate (33-0 vote). The Act amends T.C.A. § 7-51-201 by adding subsection (d), which outlines specific types of cancers presumed to have been acquired as the result of employment in the fire service and the eligibility requirements for firefighters seeking to be covered by the presumption. This State law outlines specific employment, pre-employment, and annual medical monitoring that a firefighter must undergo to be covered by the presumption.

Summary of 2020 Amendment

On June 22, 2020, Governor Bill Lee signed the State of Tennessee Public Chapter 754 and amended the Barry Brady Act. The amendment deleted T.C.A. § 7-51-201 (d)(2)(A) that specified the deadlines that must be met by firefighters for physical medical examinations to be completed. Public Chapter 754 substituted the following language in T.C.A. § 7-51-201 (d)(2)(A), “Any firefighter desiring to utilize the presumption established in this subsection (d), must obtain a physical medical examination after July 1, 2019, and the examination must include a cancer screening that fails to reveal any evidence of the cancers listed in this subsection (d).

Summary of 2022 Amendment

On April 27, 2022, the 112th Tennessee General Assembly passed House Bill 0335 and Senate Bill 1569, amending T.C.A. § 7-51-201 to include leukemia and testicular cancers to the list of cancers covered by the Act. This amendment brought the number of covered cancers to six, including Non-Hodgkin’s Lymphoma, colon, skin,

multiple myeloma, leukemia, and testicular cancer. Any firefighter desiring to utilize the presumption established in this subsection (d) for leukemia or testicular cancer must obtain a physical medical examination after July 1, 2022, and the examination must include a cancer screening that fails to reveal any evidence of leukemia or testicular cancer.

The addition of leukemia and testicular cancer to the list of covered cancers will become effective July 1, 2022.

UT MTAS Recommendations-Revised September 2023

UT MTAS recommends that municipalities proactively approach and educate their employees about the requirements of the Act. Proactively addressing physical medical examinations and cancer screening demonstrates the value public entities place on the long-term health and safety of their employees. However, it is important to note that compliance with the Act is incumbent on the firefighter requesting appropriate physical medical examinations and cancer screenings, not the public entity.

It is recommended that municipalities:

- Develop a policy that outlines the process in which the entity will seek to minimize risks associated with contracting cancer due to employee lifestyle choices and workplace exposures.
- Notify eligible employees about the Act and determine if the employee has a desire to participate in physical medical examinations and cancer screenings required by the Act.
- Document, using the appropriate form, the desire of each employee to either participate in a physical medical examinations and cancer screening program or waive his/her participation in the program.

What is the Barry Brady Act?

The Act is legislation that provides that when the State of Tennessee, any municipal corporation, or other political subdivision of the state maintains a fire department that has established or establishes any form of compensation to be paid to firefighters for any condition of impairment of health that results in the loss of life or personal injury in the line of duty or course of employment, there is a presumption that any condition or impairment of health of firefighters caused by all forms of cancers covered by this statute, that results in hospitalization, medical treatment or disability, has arisen out of employment, unless the contrary is shown by competent medical evidence.

Cancers covered are all forms of the following:

- Non-Hodgkin’s Lymphoma
- Colon cancer
- Skin cancer
- Multiple myeloma cancer
- Leukemia cancer (Added 2022)
- Testicular cancer (Added 2022)

Any such condition or impairment of health that results in death is presumed to be a loss of life in the line of duty, to have arisen out of employment, and to have been in the actual discharge of the duties of the firefighter’s position, unless the contrary is shown by a physician board certified in oncology.

Secondary employment and/or lifestyle habits may be considered when determining whether a firefighter is eligible for the presumption.

Effective Date of the Act

The Act was signed into law by Governor Bill Lee on May 24, 2019, and became effective on July 1, 2019. The Act was amended on June 22, 2020, by Public Chapter 754, removing some deadlines for eligibility. The Act was further amended effective July 1, 2022, adding two additional cancers, leukemia and testicular, to the list of covered cancers. This Act continues to honor the life and legacy of Sparta, Tennessee, Fire Captain Barry Brady.

Definitions

As used in the Act:

- Firefighter-means any full-time, paid employee of a fire department of the state or a political subdivision of the state, and
- Fire Department-means a department recognized by the state fire marshal’s office pursuant to the fire department recognition act, compiled in Title 68, Chapter 102, part 3, and manned by full-time, paid employees.¹

¹ Fire department recognition must be renewed with the Tennessee State Fire Marshal’s Office every three years to remain current.

Firefighter Eligibility Requirements-Revised 2023

To be eligible for the presumption, a firefighter:

- Must be employed as a firefighter for the State of Tennessee, a municipality, or other political subdivision of the state that maintains a fire department that has established or establishes any form of compensation to be paid to a firefighter for any condition or impairment of health that results in loss of life or personal injury in the line of duty or course of employment.
- Must have been exposed to heat, smoke, and fumes, or carcinogenic, poisonous, toxic, or chemical substances, while performing the duties of a firefighter in the firefighter's capacity as an employee.
- Must have completed five (5) or more consecutive years in service with an eligible fire department.
- Must acquire one of the covered cancers.
- Must obtain a physical medical examination after July 1, 2022, and the examination must include a cancer screening that fails to reveal any evidence of the cancers listed in this subsection.
- Must obtain an annual physical medical examination that includes cancer screening for the cancers covered by this Act.

If I Meet All the Eligibility Requirements, Am I Automatically Covered?

No, the presumption is rebuttable. A board-certified physician of oncology may consider the firefighter's lifestyle habits or secondary employment when making a determination of eligibility for the presumption.

Who Pays for Required Medical Examinations and Cancer Screenings?

The Act provides that the employer is responsible for all costs associated with any medical examinations and cancer screenings required pursuant to the Act. The firefighter must request the physical medical exam and cancer screening tests from the employer.

How Long Are Firefighters Covered?

Firefighters that meet the eligibility requirements for the presumption are potentially eligible for benefits for up to five (5) years from the date of the firefighter's last exposure to heat, smoke, and fumes, or carcinogenic, poisonous, toxic, or chemical substances, while performing the duties of a firefighter.

Can My Employer Screen for Additional Types of Cancer?

Yes, your employer may elect to screen for cancer types that are not listed in the Act, which is desirable for early cancer detection. However, if a firefighter is diagnosed with a cancer not listed in the Act, the cancer will not be considered as having arisen out of employment under this Act.

Can My Employer Cover Additional Types of Cancer?

Yes, your employer may elect to establish a presumption that covers additional types of cancers not covered by this Act arose out of employment. However, the inclusion of additional cancers by your employer does not impact the applicability of this Act.

What Types of Screening Tests are Available for the Covered Cancers?

National Fire Protection Association (NFPA) Standard 1582, *Standard on Comprehensive Occupational Medical Program for Fire Departments*, 2018 edition, contains guidelines on the medical evaluation of both candidates and current members of fire departments, including screening for different types of cancer as part of both pre-employment and annual physical medical evaluations.

UT MTAS recommends that, if desired, municipalities consult with a physician for definitive medical advice on the types of cancer screenings the municipality may elect to use.

Non-Hodgkin's Lymphoma Cancer

Non-Hodgkin lymphoma is a form of cancer that affects the lymphocytes, a type of white blood cell found in the lymphatic system. A medical exam is the starting point for screening for non-Hodgkin's Lymphoma. The physician may perform a physical exam, check for swollen lymph nodes in the neck, underarms, and groin, and check for a swollen spleen or liver. The exam may also include questions about the firefighter's personal and family medical history. If the physician believes that there is a likelihood of cancer, the physician will likely order tests and procedures used to diagnose the stage and type of non-Hodgkin's lymphoma, including:

- Blood and urine tests to help rule out an infection or other disease.
- An ultrasound to look for an enlarged lymph node(s) near the body's surface and for an enlarged spleen or liver.
- Imaging tests, such as X-ray, CT, MRI, and positron emission tomography (PET), to look for tumors in the body.

- A lymph node biopsy procedure to remove all or part of a lymph node for laboratory analysis to reveal whether the firefighter has non-Hodgkin's lymphoma and, if so, which type.
- Pleural or peritoneal fluid sampling, where fluid is drawn from the chest or abdomen to look for cancer cells.
- A bone marrow aspiration and biopsy procedure to look for non-Hodgkin's lymphoma cells.
- A lumbar puncture to look for cancer cells in the cerebrospinal fluid.

These tests are usually progressive in nature, starting with the least invasive, and will be determined by the physician based on the findings of the medical history and physical exam.

Colon Cancer

Colon cancer is a malignancy that begins in the colon or large intestine. In general, doctors recommend that colon cancer screenings begin at age 50; however, it is recommended that African Americans begin getting colon cancer screenings at age 45. The Act requires firefighters to be screened for colon cancer regardless of age. The best screening test for colon cancer is a colonoscopy. However, colonoscopies are invasive and expensive, which can drive up the cost of an employer's healthcare budget. Most physicians recommend that patients receive a colonoscopy once every ten years starting at age 50 or 45 for African Americans, so what options are available for those under 50 and 45, respectively?

Screening can be performed, from the least invasive to the most invasive, via a fecal occult blood test, fecal immunochemical testing, screening imaging via a camera swallowed, and colonoscopy.

The current medical consensus is leaning toward using fecal immunochemical testing as an annual screening, followed by additional evaluation for anyone with positive results.

Fecal occult blood testing may be used for screening, but some people may not be eligible due to underlying pre-existing bowel disease. NFPA 1582 recommends annual fecal occult blood testing for all members.

A stool DNA test analyzes the DNA from a person's stool sample to look for cancer. The test uses changes in the DNA that occur in polyps and cancers to determine whether a colonoscopy should be done.

Capsule endoscopy may be used before a colonoscopy. The patient swallows a small pill capsule with two small video cameras. The pill passes through the digestive tract,

and the cameras wirelessly transmit images to a recorder the patient wears on a belt. The physician will review the images and determine if further testing is needed.

A colonoscopy would be used for patients at higher risk or with positive test results, as determined by a physician.

Skin Cancer

Skin cancer is the abnormal growth of skin cells and can occur anywhere on the skin. There are three major types of skin cancer: basal cell carcinoma, squamous cell carcinoma, and melanoma.

A physician will screen for skin cancer by performing a medical exam that includes obtaining a patient's personal and family medical history, asking about any symptoms the patient may have noticed or experienced, and conducting a physical exam that involves looking for any abnormal areas on the skin.

If the physician finds anything abnormal, he/she may order a skin biopsy to test for cancerous cells. Additional tests might include imaging tests to examine the nearby lymph nodes for signs of cancer, a sentinel lymph node biopsy, or removal of a lymph node and testing signs of cancer.

NFPA 1582 recommends screening for skin cancer as part of the annual medical physical examination, so the cost should be nominal.

Multiple Myeloma Cancer

Multiple myeloma is a type of blood cancer that affects plasma cells, causing malignant plasma cells to accumulate in the bone marrow, crowding out the normal plasma cells that help fight infection.

Screening for multiple myeloma starts with a medical exam that includes a physical and patient and family history. The physician will ask about the signs and symptoms associated with multiple myeloma. After the medical exam, if the physician believes that additional screening is required, he/she can order specific tests to confirm a diagnosis of multiple myeloma. These tests include:

- Complete blood count (hereinafter "CBC")
- Blood chemistry tests
- Urine tests
- Fine needle or core needle biopsy
- Bone marrow biopsy
- Abdominal fat pad aspirate biopsy

- Imaging tests, including X-rays, magnetic resonance imaging (MRI), computed tomography (CT) scans, and positron-emission tomography (PET) scans
- Genome sequencing test
- Echocardiogram.

The most common screening test for multiple myeloma is the complete blood count (CBC), a part of a routine medical exam.

Leukemia Cancer

Leukemia is a cancer of the early blood-forming cells. Most often, leukemia is a cancer of the white blood cells, but some leukemias start in other blood cell types. Several types of leukemia are divided based mainly on whether it is acute (fast-growing) or chronic (slow-growing) and whether it starts in myeloid or lymphoid cells.

Because many types of leukemia show no obvious symptoms early in the disease, leukemia may be diagnosed incidentally during a physical exam or as a result of routine blood testing. To confirm the diagnosis and identify the specific type of leukemia, a needle biopsy and aspiration of bone marrow from a pelvic bone may need to be done to test for leukemic cells, DNA markers, and chromosome changes in the bone marrow.

Testicular Cancer

Testicular cancer is the abnormal growth of testis cells. This type of cancer is usually diagnosed after the man notices a lump or other change in a testicle. When an abnormality is suspected, an ultrasound is usually ordered, which is a painless medical test that helps the doctor to see whether there are abnormalities in the testicle. If the ultrasound shows evidence of cancer, then surgery may be performed to remove the testicle and it is examined under a microscope to see whether cancer is present and, if so, what type of cancer.

Conclusion

Firefighters provide vital public safety services to the public at large. The job brings with it many inherent hazards that can cause serious physical and emotional injuries, including death. The Act establishes a presumption that firefighters who acquired any of the original four (4) types with the additional two (2) types of cancer covered by this legislation acquired the cancers as the result of being exposed to some of the inherent hazards mentioned in this report, in the line of duty. Firefighters need to obtain the required physical medical examinations and cancer screenings and make good lifestyle choices to be and remain eligible for the presumption.

Questions or Assistance

Please contact the following MTAS consultants for questions or assistance.

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Additional Resources

Public Chapter 490, Acts of 2019

Hyperlink: <https://publications.tnsosfiles.com/acts/111/pub/pc0490.pdf>

Public Chapter 754, Acts of 2020

Hyperlink: <https://publications.tnsosfiles.com/acts/111/pub/pc0754.pdf>

Tennessee General Assembly House Bill 0335

Hyperlink: <https://www.capitol.tn.gov/Bills/112/Bill/HB0335.pdf>

Tennessee General Assembly Senate Bill 1569

Hyperlink: <https://www.capitol.tn.gov/Bills/112/Bill/SB1569.pdf>

IAFC Heath Care Provider's Guide to Firefighter Physicals

The International Association of Fire Chiefs (IAFC) developed the Heath Care Provider's Guide to Firefighter Physicals.

<http://www.fstaresearch.org/resource/?FstarId=11591>

NIOSH Study

The federal National Institute for Occupational Safety and Health (NIOSH) published the results of the largest firefighter cancer study to date in 2013. Researchers examined cancer risks for career firefighters by examining data from nearly 30,000 firefighters from three large U.S. cities (San Francisco, Chicago, and Philadelphia). NIOSH researchers looked at both cancer incidence and mortality between 1950 and 2009.

CDC Study

Daniels et al., 2013 – Daniels, R. D., Kubale, T. L., Yiin, J. H., Dahm, M. M., Hales, T.R., Baris, D., & Pinkerton, L. E. Mortality and cancer incidence in a pooled cohort of US firefighters from San Francisco, Chicago and Philadelphia (1950–2009). Occupational and environmental medicine, 71(6), 388-397. Retrieved from:

http://www.cdc.gov/niosh/firefighters/pdfs/OEM_FF_Ca_Study_10-2013.pdf

LeMaster's Study

See also Cancer risk among firefighters: a review and meta-analysis of 32 studies by LeMasters et al, 2006. Abstract at: <http://www.ncbi.nlm.nih.gov/pubmed/17099456>.

Recommended Firefighter Physical Exam and Screening Tests

An open letter to health care providers regarding firefighter physical exam and screening tests from Dr. Michael G. Hamrock for the Boston Fire Department.

<https://www.safetystanddown.org/wp-content/uploads/2019/04/FCSN-Letter-to-Primary-Care-Provider.pdf>

NFPA 1582, Standard on Comprehensive Occupational Medical Program for Fire Departments, 2018 edition

The National Fire Protection Association (NFPA) provides free, read-only access to its standards. Use this link to gain access:

<https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/Free-access>.

Sample Medical History and Examination Form for Firefighters

MTAS has a link to a sample Medical History and Examination Form for Firefighters based on NFPA 1582 available on the MTAS Knowledgebase website at this link:

<http://www.mtas.tennessee.edu/knowledgebase/nfpa-1582-standard-medical-requirements-firefighters-and-fire-department-physicians>

Sample Barry Brady Act Pre-Employment Form:

Sample Barry Brady Act Pre-Employment Physical Medical Exam Form on the MTAS Knowledgebase website at this link: [Form: *Employment-BBA-2023-09*](#)

Sample Barry Brady Act Annual Physical Medical Exam Form:

Sample Barry Brady Act Annual Physical Medical Exam Form on the MTAS Knowledgebase website at this link: [Form: *Annual-BBA-2023-09*](#)

Sample Annual Physical Medical Exam Fit for Duty Form:

Sample Barry Brady Act Pre-Employment Form on the MTAS Knowledgebase website at this link: Form: [Form: *FitForDuty-BBA-2023-09*](#)



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