



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
APPEALS & CONSTITUTIONAL LITIGATION DIVISION
GOVERNMENT ACCOUNTABILITY UNIT

EVAN DANIELS
UNIT CHIEF COUNSEL
EVAN.DANIELS@AZAG.GOV

April 16, 2019

Mr. Ken Strobeck
Executive Director
League of Arizona Cities and Towns
1820 W. Washington St.
Phoenix, Arizona 85007

Re: State Law Requirements Regarding Healthcare For First Responders

Dear Mr. Strobeck:

The Office of the Attorney General (“Office”) has been made aware of allegations that certain municipalities are not adhering to recent state law amendments governing insurance coverage for firefighters and peace officers concerning defined occupational diseases.

As you likely are aware, HB 2161 amended A.R.S. § 23-901.01 in 2017 to require that any disease caused by several conditions that result in disability or death be presumed to be an occupational disease arising out of employment. The presumption is available if certain requirements are met, including that, for firefighters, a physical examination occur that is reasonably aligned with the National Fire Protection Association standard on comprehensive occupational medical program for fire departments.

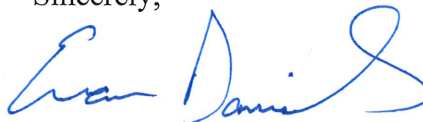
Likewise, HB 2501 passed last year amended several statutes to incorporate provisions regarding post-traumatic stress disorder (“PTSD”) for first responders. Specifically, A.R.S. § 23-901 was amended to add PTSD as an occupational disease, and A.R.S. § 23-1106 was newly added to clarify that PTSD generally is presumed to be an occupational disease unless rebutted, compensable as a mental illness injury in the course of employment, and deemed to arise out of and in the course of employment if: (1) the first responder is receiving or has received licensed counseling pursuant to A.R.S. § 38-672 and (2) the licensed mental health professional providing treatment pursuant to A.R.S. § 38-672 determines the first responder has PTSD resulting from performance of job duties.

HB 2501 also amended A.R.S. § 38-672 to require the state and political subdivisions to provide firefighters at least twelve, but possibly as many as thirty-six, visits to licensed counseling if exposed to a psychologically traumatic event or series of events in the course of

employment. Section 38-672 imposes additional requirements that include employers not being allowed to require an independent medical examination for PTSD workers' compensation claims or requiring use of accrued paid leave to receive treatment during work hours. Employers must continue to provide the same pay and benefits if the employee is determined not fit to return to work while receiving treatment and also must allow employees to select their own licensed mental health professional.

The Office has received reports that first responders are having insurance claims based on these state law amendments improperly denied, including claims related to choosing mental health professionals for PTSD treatment. These seemingly improper denials suggest that some municipalities may not be aware of their responsibilities under the newly amended statutes or alternatively, are disregarding the state law requirements. Accordingly, the Office requests that the League share this letter with its members to remind them of the requirements mandated by HB2501 and HB 2161.

Sincerely,

A handwritten signature in blue ink, appearing to read "Evan Daniels", with a stylized flourish at the end.

Evan Daniels
Unit Chief Counsel