

MARTIN L. LEIBOWITZ, P.A.



What **CORRECTIONAL OFFICERS**  
Should Know About  
Workers' Compensation Benefits  
&  
**Florida's Heart-Lung Statute**

**(High Blood Pressure & Heart Disease)**



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This brochure will arm you with a basic understanding of Florida's Heart-Lung Law. Regardless of who you choose to pursue your workers' compensation benefits, we hope this brochure helps you better understand your rights as a Correctional Officer or Correctional Probation Officer, as well as how the presumption can help you secure those benefits.

As a result of dangerous, hazardous and stressful situations, many Correctional Officers and Correctional Probation Officers develop heart disease (including coronary artery disease) and/or hypertension, mental or nervous injuries, diabetes, hearing loss, and other conditions or impairments of health resulting in total or partial disability. These conditions sometimes result in the need for heart catheterization, angioplasty, stenting of the arteries, and even coronary artery bypass graft surgery. However, under the Florida Heart-Lung Law, these conditions are presumed to have been accidental and to have been suffered in the line of duty. This "Presumption" for Correctional Officers and Correctional Probation Officers is contained within Section 112.18 of the Florida Statutes, also known as the Heart-Lung Statute.

But more often than you might expect, many employers, including the State of Florida itself, and their workers' compensation insurance companies, including Florida's Division of Risk Management, sometimes wrongfully refuse to pay the benefits that are rightly owed.

Far too many Correctional Officers and Correctional Probation Officers are misinformed, or not informed at all, about the Heart-Lung Statute Presumptions, the burning of unnecessary Sick Leave, the reimbursement of hospital and doctor bills paid under Group Health Insurance, unfair reduction of lifetime Health Insurance entitlement, the obligation to report your condition to your employer, the time granted to do so by Florida Statutes, and the interaction between workers' compensation benefits, pension benefits and Social Security benefits.

### **What is THE HEART/LUNG PRESUMPTION?**

The Florida Legislature has enacted the Heart/Lung Statute Presumption making it less difficult for a Correctional Officer, or Correctional Probation Officer, to prove the required relationship between certain occupational diseases and their employment.

**Section 112.18**, Florida Statutes, provides that:

**Heart Disease, Hypertension and Tuberculosis** are **presumed** accidental and suffered in the line of duty if the correctional officer successfully passed a pre-employment physical examination which did not show any evidence of the covered condition, which resulted in “disability”

**HOW DO I ESTABLISH A DISABILITY?**

If you are incapacitated or unable to earn wages because of your medical condition, regardless of whether you have received full wages or sick pay during the period of your incapacitation, you have likely suffered a “disability”. However, this lost time must be the result of a doctor’s instructions, as your disability cannot be based on your decision alone.

**HOW DO I START THE CLAIMS PROCESS?**

The most commonly asked question is how an injured Correctional Officer or Correctional Probation Officer should go about filing a claim. When filing your claim for benefits, it is important that you be aware of the many hidden traps you may encounter along the way. The first step is to understand your rights before filing your claim. If you suffer from one of the above covered medical conditions, and you have been disabled as a result, you should immediately notify your supervisor and ask that a First Report of Injury or Illness be completed by your employer. Never assume that your supervisor will automatically prepare this written notice of your injury simply because he/she heard about your condition through the office grapevine. If you have been diagnosed with High Blood Pressure, Heart Disease, Tuberculosis, or another covered condition, the Florida Statutes allow you **only 90 days from the date of your disability** to give your employer notice of your accident. Failure to do so can cause serious problems, including the denial of your claim! The next, and most important, step is to contact a qualified attorney who can provide you with the insight and knowledge necessary to make further decisions regarding your claim.



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### ONCE MY CLAIM IS PROVEN, WHAT WILL I RECEIVE?

The Florida workers' compensation law provides for a percentage of your lost wages as well as medical benefits, including payment of your authorized doctors' bills, hospitalizations, surgeries, diagnostic testing, prescriptions and mileage to and from your doctor and pharmacy.



Once you have been released by your treating doctor as having reached maximum medical improvement (MMI), you may be entitled to permanent benefits, some of which are calculated based on the percentage of impairment your doctor assigns from 1% up to 99%. Therefore, assuming your compensation rate is the maximum for 2008, or \$746.00 per week, and your impairment rating is 40%, **you would be entitled to 175 weeks of benefits at 75% of \$746.00 (\$559.50) per week, or a total benefit of \$97,912.50.**

### WHY MARTIN LEIBOWITZ?

With over 26 years of experience in handling workers' compensation cases and as an Assistant State Attorney in Duval, Clay and Nassau Counties, Martin Leibowitz knows how insurance companies and employers think, and the defenses they will raise against your claim. His years with the State Attorney's Office have provided him with an understanding of the stress and injuries resulting from Correctional Officers' and Correctional Probation Officers' duties.

If you have been injured as a result of your work as a Correctional Officer or Correctional Probation Officer, and are ready to pursue the benefits you rightfully deserve, contact the Law Firm of Martin L. Leibowitz, P.A. for Jacksonville and surrounding county cases at (904) 384-8878, to schedule your free, one-on-one, **Heart-Lung Statute Rights Analysis**. It is here that you will be guided through the complex legal and insurance process. You will gain the knowledge and assistance you need to file a claim for the benefits you are due.

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