

VSO Asbestos Claims Training

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888-327-8271



VETERAN OUTREACH

FREE ADVOCACY CENTER

- ★ We provide information and assistance for patients and their families who have been affected by asbestos disease.
 - We help patients access medical information and resources
 - Financial assistance and compensation
 - Emotional support resources

About the team

- ★ Aaron Munz – Veteran Director
 - Patient Advocate at Asbestos.com since 2015
 - VA Accredited Claims Agent
 - Army Veteran, Armor Officer
- ★ Danielle DiPietro - Veteran Outreach Specialist
 - Patient Advocate at Asbestos.com since 2013
 - VA Accredited Claims Agent
- ★ Karen Selby, RN, Support Group Leader
- ★ Dr. Snehal Smart, MD
- ★ Vanessa Blanco, MHA, OPN-CG - oncology patient navigator
- ★ Amy Pelegrin, Patient Advocate, Hospice Navigator



How we help veterans

- ★ Support Literature
- ★ Medical diagnostic information
- ★ Mesothelioma Doctor Match Assistance - VHA West Roxbury, VHA Houston, VHA Los Angeles, VHA Miami, VHA Atlanta - Fee for Service – at regional specialty centers
- ★ Connecting with financial help – grants, legal, VA, travel assistance
- ★ **Understanding VA Claims Evidence Development**
 - **Nexus Statements**
 - **Exposure Summaries**
- ★ Connecting with local VSOs



Components of Asbestos Disease

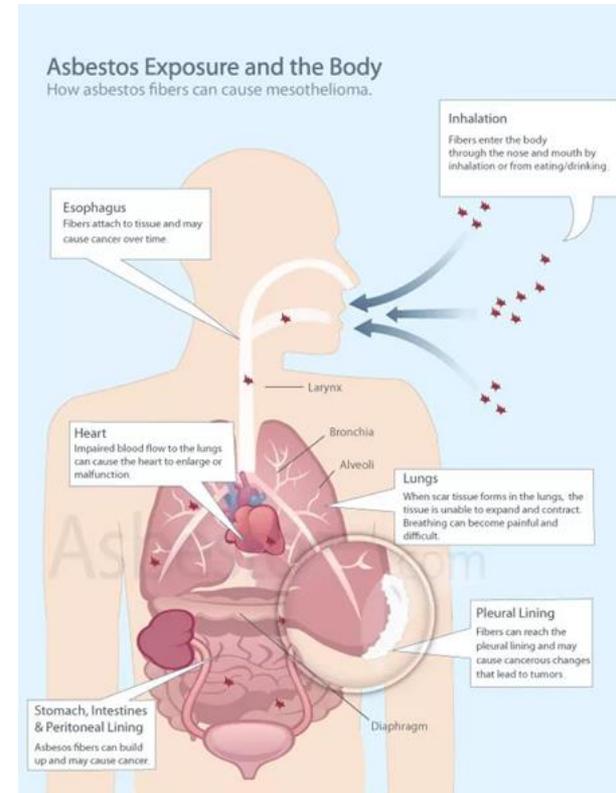
- Latency Period - The latent period for development of disease due to exposure to asbestos ranges from 10 to 45 or more years between first exposure and development of disease.
- Disease-causing exposure to asbestos may be
 - brief, and/or
 - indirect
- Smoking does not prevent an asbestos claim from being approved but the VA does not recognize COPD as being primarily caused by asbestos



VA Asbestos Related Claims

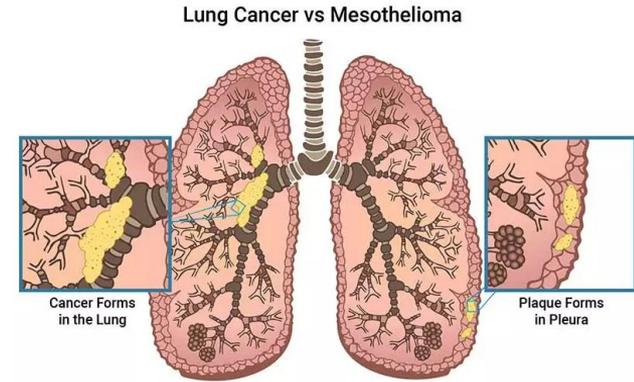
Conditions the VA recognizes- M21-1, Part IV, Subpart ii, Chapter 2, Section C

- fibrosis, the most commonly occurring of which is interstitial pulmonary fibrosis, or asbestosis
- tumors
- pleural effusions and fibrosis
- pleural plaques
- mesotheliomas of pleura and peritoneum
- cancers of the
 - lung
 - bronchus
 - gastrointestinal tract
 - larynx
 - pharynx, and
 - urogenital system, **except the prostate.**
- All persons with significant asbestosis develop cor pulmonale, heart disease secondary to disease of the lung or its blood vessels, and those who do not die from cancer often die from heart failure secondary to cor pulmonale.



Mesothelioma Cancer

- Is not lung cancer – affects the linings of organs
- 4 Types – Pleural (lungs) Peritoneal (abdomen),
 - Pericardial (heart), Testicular
- Most commonly caused by asbestos exposure
- **Veterans make up 30% of 3,000 DX each year**
- Pathology states malignant mesothelial cells = mesothelioma
- Aggressive – patients who are treated by specialty center have more options
- <https://www.asbestos.com/mesothelioma/>



Diagnostic Testing

- Asbestos lung disease must have two components
 - Chest imaging - x-ray, CT, MRI
 - Pulmonary Function Test (PFT) - Spirometry
- Pulmonary Lung Specialists are best trained to DX RLD/ILD
 - Can differentiate between COPD and RLD/ILD
- Asbestos related cancer requires tissue biopsy and pathology report
 - Nexus statements for cancers other than mesothelioma must be written by an oncologist



VA Decision Process

M21-1, Part IV, Subpart ii, Chapter 2, Section C

- When deciding a claim for service connection for a disability resulting from exposure to asbestos
 - determine whether or not service records demonstrate the Veteran was exposed to asbestos during service
 - ensure that development is accomplished to determine whether or not the Veteran was exposed to asbestos either before or after service, and
 - determine whether or not a relationship exists between exposure to asbestos and the claimed disease, keeping in mind latency and exposure factors.
 - [SC for Disabilities Resulting From Exposure to Asbestos](#)
 - [Developing Claims for SC for Asbestos-Related Diseases](#)



Elements of a successful VADC/ DIC claim

- **Nothing is presumptive** for asbestos claims – must prove medical connection and military exposure
- Must have a **valid diagnosis**
 - For any DX other than Mesothelioma Cancer - Pleural, Peritoneal or asbestosis the VA requires a nexus statement from a medical specialist stating that asbestos is the cause of the diagnosis
- Must be able to prove exposure to asbestos during military service - a **majority of lifetime exposure**

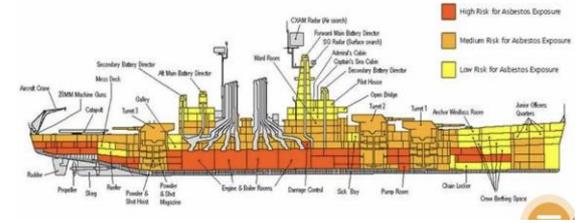
Nexus Statements

- **Must include the connection between the current diagnosis and asbestos**
- The opinion should be expressed as follows:
 1. **“is due to”** (100% sure)
 2. **“more likely than not”** (greater than 50%)
 3. **“at least as likely as not”** (equal to or greater than 50%)
- **Must also include a medical rationale** for making the conclusion
- **Evidence based** - refer to scans, pathology report, other existing asbestos related illness, consistent with latency period of exposure during service

How Do Doctors Link Lung Cancer to Asbestos?

- The **Helsinki Criteria** were established in 1997. They help doctors determine when respiratory diseases are caused by asbestos.
- Must fit two criteria:
 - **Latency period:** The lung cancer must have developed at least 10 years after the initial exposure to asbestos.
 - **Evidence of asbestos exposure:** One of the following must be documented:
 - Diagnosis of asbestosis.
 - Higher than normal asbestos fibers in lung tissue.
 - Exposure to levels of airborne asbestos equal to or greater than 25 fibers per milliliter of air a year (f/mL-yr). To reach this threshold in a one-year work period, the patient must have been exposed to a level of 25 f/mL. Such a high level is typically **only found in asbestos manufacturing and asbestos insulation work**. To reach 25 f/mL-yr in a five-year period, an individual must have been exposed to asbestos at a level of 5 f/mL. This level is **typical of shipbuilding and construction work**.

Asbestos Exposure Summaries



- Do not assume that the VA knows how a veteran was exposed to asbestos based on MOS
- Provide detailed summaries of the 5 W's and How the veteran was exposed - duty locations, ships, specific equipment
- Buddy Statements and Pictures if possible



**Department of Veterans Affairs
Veterans Benefits Administration**

**M21-1, Part IV, Subpart ii
February 8, 2016**

**Probability of In-
Service Asbestos
Exposure**

ASBESTOS MOS HANDOUT

MOS Code	Job Title	Probability of Exposure
AA	Airman Apprentice	Minimal
ABE	Aviation Boatswain's Mate (Launch & Rec Equip)	Probable
ABF	Aviation Boatswain's Mate	Probable
ABH	Aviation Boatswain's Mate (Aircraft Handler	Probable
AC	Air Traffic Controller	Minimal
ACM	Aviation Chief Metalsmith	Probable
ADJ	Aviation Machinist's Mate (Jet Engine Mechanic)	Probable
ADR	Aviation Machinist's Mate	Probable
AE	Aviation Electrician's Mate	Probable
AFCM	Aircraft Maintenanceman (Master Chief)	Minimal
AG	Aerographer's Mate	Minimal
AK	Aviation Storekeeper	Minimal

Asbestos Exposure Summaries

- Questions to ask veterans to develop asbestos claim
 - Do you think you had more exposure during your service?
 - Where, when how were you exposed to asbestos?
 - If Navy or Coast Guard – Rating – is Highly Probable?
 - Shipyard or Drydock maintenance periods?
 - What type of equipment did you work with?
 - Vehicle and/or equipment maintenance/ PMCS and or services?
 - Did you work outside of your MOS or work details doing maintenance etc?
 - What type of work did you do before and after military service?
 - Did you receive any training or PPE for handling asbestos in service and/or civilian career?

Asbestos Exposure Summaries

- Calculating asbestos exposure if there is civilian exposure
 - VA looks at number of years of asbestos exposed work
- Not all exposure is equal – must illustrate that to the VA
 - 1 year on a Navy ship is $365/24/7$ Exposure = 8,760 hours of exposure
 - 1 year in a factory (50 weeks/ 40 hr/wk) = 2,000 hours of exposure
- OSHA Asbestos regulations – 1971, 1976, 1983, 1986 – each lowered the PEL – Permissible Exposure Limit
- <https://www.osha.gov/laws-regs/federalregister/1994-08-10>
- Many civilian employers implemented asbestos safety procedures to avoid exposure liability – most began in late 1970's early 1980's
 - Helps to demonstrated less civilian exposure after safety regulations



Asbestos Exposure Summaries – Key Phrases

During my service in the Navy, I was never informed about the dangers of asbestos, and no breathing protection or any other protective gear or clothing was supplied.

My military records during my service in the Navy will not show any asbestos-related diseases due to the long latency period of asbestos-related diseases. This is consistent with M21-1R, Part IV, Subpart ii, 2. SC for Disabilities Resulting From Exposure to Asbestos, “Many people with asbestos-related diseases have only recently come to medical attention because the latent period for development of disease due to exposure to asbestos ranges up to 45 or more years between first exposure and development of disease.”

VA Disability Ratings

- 38 CFR 4.97 Schedule of Ratings - Respiratory System
- For an active cancer the rating is 100% disability - 38 CFR 4.97 6819
- For all other non cancerous asbestos lung diseases the VA rates based on the results of a Pulmonary Function Test (PFT)
 - Different Criteria for Restrictive Lung Disease (Chronic pleural effusion or fibrosis/pleural plaques) CFR diagnostic codes 6840 through 6845
 - and Interstitial Lung Disease/Asbestosis - CFR diagnostic codes 6825 through 6833



VA Disability Ratings

HOW TO PROVE MILITARY EXPOSURE

HELPFUL DOCUMENTS AND RESOURCES

- Developing Asbestos-Related Claims Information - [M21-1R excerpt \(download\)](#)
- [MOS Asbestos List \(download\)](#)
- [DBQ Respiratory Conditions other than TB form \(download\)](#)
- [ILD/ RLD Rating List \(download\)](#)



Asbestosis.

General Rating Formula for Interstitial Lung Disease (diagnostic codes 6825 through 6833):

Forced Vital Capacity (FVC) less than 50-percent predicted,		
or; Diffusion Capacity of the Lung for Carbon Monoxide by the Single Breath Method (DLCO (SB)) less than 40-percent predicted,		
or; maximum exercise capacity less than 15 ml/kg/min oxygen consumption with cardiorespiratory limitation, or; cor pulmonale or pulmonary hypertension, or; requires outpatient oxygen therapy		100
FVC of 50- to 64-percent predicted, or; DLCO (SB) of 40- to 55-percent predicted, or; maximum exercise capacity of 15 to 20 ml/kg/min oxygen consumption with cardiorespiratory limitation	60	
FVC of 65- to 74-percent predicted, or; DLCO (SB) of 56- to 65-percent predicted		30
FVC of 75- to 80-percent predicted, or; DLCO (SB) of 66- to 80-percent predicted		10

How to contact our team

Website www.vetoutreach.com request book packet for your office and materials and resources to assist veterans

Phone: **888-327-8271**

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