



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
MALIGNANT NEOPLASM OF THE ORAL
CAVITY, OROPHARYNX AND
HYPOPHARYNX
(Balance of Probabilities)
(No. 66 of 2021)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

Dated 21 May 2021

The Common Seal of the
Repatriation Medical Authority
was affixed to this instrument
at the direction of:

Professor Nicholas Saunders AO
Chairperson

Contents

1	Name	3
2	Commencement	3
3	Authority	3
4	Repeal	3
5	Application.....	3
6	Definitions	3
7	Kind of injury, disease or death to which this Statement of Principles relates	3
8	Basis for determining the factors	4
9	Factors that must exist.....	4
10	Relationship to service.....	7
11	Factors referring to an injury or disease covered by another Statement of Principles	7
Schedule 1 - Dictionary		8
1	Definitions	8

1 Name

This is the Statement of Principles concerning *malignant neoplasm of the oral cavity, oropharynx and hypopharynx (Balance of Probabilities)* (No. 66 of 2021).

2 Commencement

This instrument commences on 21 June 2021.

3 Authority

This instrument is made under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

4 Repeal

The Statement of Principles concerning malignant neoplasm of the oral cavity, oropharynx and hypopharynx No. 2 of 2013 (Federal Register of Legislation No. F2013L00017) made under subsection 196B(3) of the VEA is repealed.

5 Application

This instrument applies to a claim to which section 120B of the VEA or section 339 of the *Military Rehabilitation and Compensation Act 2004* applies.

6 Definitions

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

7 Kind of injury, disease or death to which this Statement of Principles relates

- (1) This Statement of Principles is about malignant neoplasm of the oral cavity, oropharynx and hypopharynx and death from malignant neoplasm of the oral cavity, oropharynx and hypopharynx.

Meaning of malignant neoplasm of the oral cavity, oropharynx and hypopharynx

- (2) For the purposes of this Statement of Principles, malignant neoplasm of the oral cavity, oropharynx and hypopharynx:
- (a) means a primary malignancy of the mucosa of the oral cavity, oropharynx or hypopharynx, which is the region that extends posteriorly from the lips (excluding the vermilion border and the skin of the lips) to the upper borders of the larynx and

- oesophagus, including the alveolar ridge, buccal mucosa, floor of the mouth, gums, hard and soft palate and tongue; and
- (b) excludes:
- (i) carcinoid tumour;
 - (ii) Hodgkin's lymphoma;
 - (iii) malignant neoplasm of the major or minor salivary glands or salivary gland ducts;
 - (iv) non-Hodgkin lymphoma; and
 - (v) soft tissue sarcoma.

*Death from **malignant neoplasm of the oral cavity, oropharynx or hypopharynx***

- (3) For the purposes of this Statement of Principles, malignant neoplasm of the oral cavity, oropharynx or hypopharynx, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's malignant neoplasm of the oral cavity, oropharynx or hypopharynx.

Note: *terminal event* is defined in the Schedule 1 - Dictionary.

8 Basis for determining the factors

On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that malignant neoplasm of the oral cavity, oropharynx or hypopharynx and death from malignant neoplasm of the oral cavity, oropharynx or hypopharynx can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: *MRCA*, *relevant service* and *VEA* are defined in the Schedule 1 - Dictionary.

9 Factors that must exist

At least one of the following factors must exist before it can be said that, on the balance of probabilities, malignant neoplasm of the oral cavity, oropharynx or hypopharynx or death from malignant neoplasm of the oral cavity, oropharynx or hypopharynx is connected with the circumstances of a person's relevant service:

- (1) having smoked tobacco products:
- (a) in an amount of at least 5 pack-years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and
 - (b) commencing at least 10 years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and

if smoking has ceased before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, then that onset occurred within 10 years of cessation;

Note: *one pack-year* is defined in the Schedule 1 - Dictionary.

- (2) having been exposed to second-hand smoke:
- (a) for at least 10,000 hours before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and
 - (b) commencing at least 10 years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and

if exposure to second-hand smoke has ceased before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, then that onset occurred within 10 years of cessation;

Note: *having been exposed to second-hand smoke* is defined in the Schedule 1 - Dictionary.

- (3) the oral use of smokeless tobacco:
- (a) on more days than not; and
 - (b) for at least 10 years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and

if the oral use of smokeless tobacco has ceased before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, then that onset occurred within 10 years of cessation;

Note: *smokeless tobacco* is defined in the Schedule 1 - Dictionary.

- (4) chewing betel quid or areca nut:
- (a) in an amount of at least one betel quid or areca nut per day for a continuous period of at least 1 year before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and
 - (b) commencing at least 10 years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and

if chewing of betel quid or areca nut has ceased before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, then that onset occurred within 10 years of cessation;

- (5) consuming maté:
- (a) on more days than not; and
 - (b) for at least 10 years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and
- if consumption of maté has ceased before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, then that onset occurred within 10 years of cessation;
- (6) consuming alcohol:
- (a) in an amount of at least 100 kilograms within any 10 year period; and
 - (b) at least 5 years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx; and
- if consumption of alcohol has ceased before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx, then that onset occurred within 40 years of cessation;
- Note: Alcohol consumption is calculated utilising the Australian Standard of 10 grams of alcohol per standard alcoholic drink.
- (7) acquiring persistent infection of the oral cavity epithelium or oropharyngeal epithelium with human papilloma virus type 16 or 18 before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx;
- (8) having infection with human immunodeficiency virus before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx;
- (9) taking an immunosuppressive drug for organ or tissue transplantation at least 3 years before the clinical onset of malignant neoplasm of the oral cavity, oropharynx or hypopharynx.
- Note: *organ or tissue transplantation* is defined in the Schedule 1 - Dictionary.
- (10) for malignant neoplasm of the oral cavity only, having an oral lesion at the affected site, from the specified list of oral lesions, for at least the 1 year before the clinical onset of malignant neoplasm of the oral cavity;
- Note: *specified list of oral lesions* is defined in the Schedule 1 - Dictionary.
- (11) for malignant neoplasm of the oral cavity only, having an oral lesion caused by systemic lupus erythematosus for at least the 1 year before the clinical onset of malignant neoplasm of the oral cavity;
- (12) inability to obtain appropriate clinical management for malignant neoplasm of the oral cavity, oropharynx or hypopharynx.

10 Relationship to service

- (1) The existence in a person of any factor referred to in section 9, must be related to the relevant service rendered by the person.
- (2) The factor set out in subsection 9(12) applies only to material contribution to, or aggravation of, malignant neoplasm of the oral cavity, oropharynx or hypopharynx where the person's malignant neoplasm of the oral cavity, oropharynx or hypopharynx was suffered or contracted before or during (but did not arise out of) the person's relevant service.

11 Factors referring to an injury or disease covered by another Statement of Principles

In this Statement of Principles:

- (1) if a factor referred to in section 9 applies in relation to a person; and
- (2) that factor refers to an injury or disease in respect of which a Statement of Principles has been determined under subsection 196B(3) of the VEA;

then the factors in that Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

Schedule 1 - Dictionary

Note: See Section 6

1 Definitions

In this instrument:

having been exposed to second-hand smoke means having been in an enclosed space and inhaling smoke from burning tobacco products or smoke that has been exhaled by another person who is smoking.

malignant neoplasm of the oral cavity, oropharynx and hypopharynx—see subsection 7(2).

MRCA means the *Military Rehabilitation and Compensation Act 2004*.

one pack-year means the amount of tobacco consumed in smoking 20 cigarettes per day for a period of 1 year, or an equivalent amount of tobacco products.

Note 1: An equivalent amount of tobacco products is 7,300 grams of smoking tobacco by weight, either in cigarettes, pipe tobacco or cigars, or a combination of same. For pipe tobacco, cigars or combinations of multiple tobacco types, 1 gram of tobacco is considered to be equal to one cigarette.

Note 2: Pack-years are calculated by dividing the number of cigarettes smoked per day by 20 and multiplying this number by the number of years the person has smoked. For example, smoking 10 cigarettes per day for 10 years is equal to 5 pack-years, and smoking 40 cigarettes per day for 10 years is equal to 20 pack-years.

organ or tissue transplantation means the transplantation of:

- (a) all or part of an organ or tissue; or
- (b) a substance obtained from an organ or tissue.

relevant service means:

- (a) eligible war service (other than operational service) under the VEA;
- (b) defence service (other than hazardous service and British nuclear test defence service) under the VEA; or
- (c) peacetime service under the MRCA.

Note: *MRCA* and *VEA* are also defined in the Schedule 1 - Dictionary.

smokeless tobacco means tobacco products without combustion or pyrolysis at the time of use, including chewing tobacco and tobacco snuff.

specified list of oral lesions means:

- (a) erythroplakia;
- (b) leukoplakia;
- (c) lichen planus;
- (d) oral lichenoid lesions;
- (e) oral submucous fibrosis; or
- (f) proliferative verrucous leukoplakia.

terminal event means the proximate or ultimate cause of death and includes the following:

- (a) pneumonia;
- (b) respiratory failure;
- (c) cardiac arrest;
- (d) circulatory failure; or
- (e) cessation of brain function.

VEA means the *Veterans' Entitlements Act 1986*.