



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
EPILEPSY
(Reasonable Hypothesis)
(No. 84 of 2022)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

Dated 23 August 2022.

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

Professor Terence Campbell AM
Chairperson

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1 Name

This is the Statement of Principles concerning *epilepsy (Reasonable Hypothesis)* (No. 84 of 2022).

2 Commencement

This instrument commences on 19 September 2022.

3 Authority

This instrument is made under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

4 Repeal

The Statement of Principles concerning epilepsy No. 75 of 2013 (Federal Register of Legislation No. F2013L01894) made under subsection 196B(2) of the VEA is repealed.

5 Application

This instrument applies to a claim to which section 120A of the VEA or section 338 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 epilepsy and death from epilepsy.

Meaning of epilepsy

(2) For the purposes of this Statement of Principles, epilepsy:

- (a) means a chronic, recurring, paroxysmal brain dysfunction due to sudden, abnormal, excessive neuronal discharge manifesting with seizures; and
- (b) includes status epilepticus, generalised epilepsy and focal epilepsy; and
- (c) excludes:
 - (i) movement disorders such as restless legs syndrome, periodic limb movement disorder, chorea and tics;
 - (ii) muscle dystonia or spasms associated with tetanus, drugs or chemical poisons;
 - (iii) psychogenic seizures;

- (iv) seizures occurring during electroconvulsive therapy; and
- (v) spontaneous movements occurring with syncope, vertigo or migraine.

Death from epilepsy

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

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

8 Basis for determining the factors

The Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that epilepsy and death from epilepsy can be related to relevant service rendered by veterans, members of Peacekeeping Forces, 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 as a minimum exist before it can be said that a reasonable hypothesis has been raised connecting epilepsy or death from epilepsy with the circumstances of a person's relevant service:

- (1) having a moderate to severe traumatic brain injury before the clinical onset of epilepsy;
- (2) having concussion within the 20 years before the clinical onset of epilepsy;
- (3) having an electrical injury of the brain before the clinical onset of epilepsy;

Note: Electrical injury of the brain excludes transcranial magnetic stimulation and electroconvulsive therapy.

- (4) having a surgical procedure which involves a craniotomy or cranioplasty before the clinical onset of epilepsy;
- (5) having brain radiotherapy to treat primary or secondary brain neoplasia or to treat brain arteriovenous malformation before the clinical onset of epilepsy;
- (6) having an hypoxic cerebral insult within the 2 months before the clinical onset of epilepsy;

Note: *hypoxic cerebral insult* is defined in the Schedule 1 – Dictionary.

- (7) having a central nervous system vascular lesion from the specified list of central nervous system vascular lesions within the 20 years before the clinical onset of epilepsy;

Note: *specified list of central nervous system vascular lesions* is defined in the Schedule 1 – Dictionary.

- (8) having autoimmune encephalitis at the time of the clinical onset of epilepsy;

Note 1: Examples of diseases that can cause autoimmune encephalitis include granulomatosis with polyangiitis (Wegener granulomatosis), Hashimoto encephalopathy, multiple sclerosis, neuromyelitis optica, paraneoplastic neurological syndrome and systemic lupus erythematosus.

Note 2: *autoimmune encephalitis* is defined in the Schedule 1 – Dictionary.

- (9) having an infection of the brain or meninges within the 10 years before the clinical onset of epilepsy;

- (10) having infection with human immunodeficiency virus at the time of the clinical onset of epilepsy;

- (11) having septicaemia at the time of the clinical onset of epilepsy;

- (12) having an intracranial space-occupying lesion before the clinical onset of epilepsy;

Note: *intracranial space-occupying lesion* is defined in the Schedule 1 – Dictionary.

- (13) having dementia as specified at the time of the clinical onset of epilepsy;

Note: *dementia as specified* is defined in the Schedule 1 – Dictionary.

- (14) having a medical condition affecting the brain from the specified list of medical conditions at the time of the clinical onset of epilepsy;

Note: *specified list of medical conditions* is defined in the Schedule 1 – Dictionary.

- (15) having obstructive sleep apnoea at the time of the clinical onset of epilepsy;

- (16) having tetramine poisoning before the clinical onset of epilepsy;

- (17) having type 1 diabetes mellitus or type 2 diabetes mellitus at the time of the clinical onset of epilepsy;

Note: *type 1 diabetes mellitus* and *type 2 diabetes mellitus* are defined in the Schedule 1 – Dictionary.

- (18) having clinically significant depressive disorder at least 1 year before the clinical onset of epilepsy;

Note: *clinically significant* is defined in the Schedule 1 – Dictionary.

- (19) having eclampsia within the 4 weeks before the clinical onset of epilepsy;

Note: *eclampsia* is defined in the Schedule 1 – Dictionary.

- (20) consuming at least 75 kilograms of alcohol within the 5 years before the clinical onset of epilepsy;

Note: Alcohol consumption is calculated utilising the Australian Standard of 10 grams of alcohol per standard alcoholic drink.

- (21) for death from epilepsy only, being exposed to a specific sensory stimulus or a specific repetitive task resulting in a reflex seizure immediately before death from epilepsy;

Note: *reflex seizure*, *specific repetitive task* and *specific sensory stimulus* are defined in the Schedule 1 – Dictionary.

- (22) having a moderate to severe traumatic brain injury before the clinical worsening of epilepsy;
- (23) having concussion within the 20 years before the clinical worsening of epilepsy;
- (24) having an electrical injury of the brain before the clinical worsening of epilepsy;

Note: Electrical injury of the brain excludes transcranial magnetic stimulation and electroconvulsive therapy.

- (25) having a surgical procedure which involves a craniotomy or cranioplasty before the clinical worsening of epilepsy;
- (26) having brain radiotherapy to treat primary or secondary brain neoplasia or to treat brain arteriovenous malformation before the clinical worsening of epilepsy;
- (27) having an hypoxic cerebral insult within the 2 months before the clinical worsening of epilepsy;

Note: *hypoxic cerebral insult* is defined in the Schedule 1 – Dictionary.

- (28) having a central nervous system vascular lesion from the specified list of central nervous system vascular lesions within the 20 years before the clinical worsening of epilepsy;

Note: *specified list of central nervous system vascular lesions* is defined in the Schedule 1 – Dictionary.

- (29) having autoimmune encephalitis at the time of the clinical worsening of epilepsy;

Note 1: Examples of diseases that can cause autoimmune encephalitis include granulomatosis with polyangiitis (Wegener granulomatosis), Hashimoto encephalopathy, multiple sclerosis, neuromyelitis optica, paraneoplastic neurological syndrome and systemic lupus erythematosus.

Note 2: *autoimmune encephalitis* is defined in the Schedule 1 – Dictionary.

- (30) having an infection of the brain or meninges within the 10 years before the clinical worsening of epilepsy;
- (31) having infection with human immunodeficiency virus at the time of the clinical worsening of epilepsy;
- (32) having septicaemia at the time of the clinical worsening of epilepsy;

- (33) having an intracranial space-occupying lesion before the clinical worsening of epilepsy;
 Note: *intracranial space-occupying lesion* is defined in the Schedule 1 – Dictionary.
- (34) having dementia as specified at the time of the clinical worsening of epilepsy;
 Note: *dementia as specified* is defined in the Schedule 1 – Dictionary.
- (35) having a medical condition affecting the brain from the specified list of medical conditions at the time of the clinical worsening of epilepsy;
 Note: *specified list of medical conditions* is defined in the Schedule 1 – Dictionary.
- (36) having obstructive sleep apnoea at the time of the clinical worsening of epilepsy;
- (37) having tetramine poisoning before the clinical worsening of epilepsy;
- (38) having type 1 diabetes mellitus or type 2 diabetes mellitus at the time of the clinical worsening of epilepsy;
 Note: *type 1 diabetes mellitus* and *type 2 diabetes mellitus* are defined in the Schedule 1– Dictionary.
- (39) having clinically significant depressive disorder at least 1 year before the clinical worsening of epilepsy;
 Note: *clinically significant* is defined in the Schedule 1 – Dictionary.
- (40) having moderate to severe alcohol use disorder, including alcohol dependence, at the time of the clinical worsening of epilepsy;
 Note: *moderate to severe alcohol use disorder* is defined in the Schedule 1 – Dictionary.
- (41) consuming at least 75 kilograms of alcohol within the 5 years before the clinical worsening of epilepsy;
 Note: Alcohol consumption is calculated utilising the Australian Standard of 10 grams of alcohol per standard alcoholic drink.
- (42) inability to use continuous positive airway pressure (CPAP) ventilation for diagnosed sleep apnoea, at the time of the clinical worsening of epilepsy;
- (43) inability to obtain appropriate clinical management for epilepsy.

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 factors set out in subsections 9(22) to 9(43) apply only to material contribution to, or aggravation of, epilepsy where the person's epilepsy 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(2) 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:

autoimmune encephalitis means a diffuse brain injury due to autoimmune inflammation of the brain.

clinically significant means sufficient to warrant ongoing management which may involve regular visits (for example, at least monthly) to a psychiatrist, counsellor or general practitioner.

Note: To warrant ongoing management does not require that any actual management was received or given for the condition.

dementia as specified means one of the following forms of dementia:

- (a) Alzheimer dementia;
- (b) Creutzfeldt-Jakob disease with dementia;
- (c) dementia pugilistica;
- (d) frontotemporal dementia;
- (e) Huntington's chorea with dementia;
- (f) neurocognitive disorder with Lewy bodies;
- (g) Parkinson's disease with dementia;
- (h) vascular dementia; or
- (i) any other type of dementia.

eclampsia means a condition occurring in pregnant or puerperal women, characterised by hypertension, coma, convulsions, oedema or proteinuria.

epilepsy—see subsection 7(2).

hypoxic cerebral insult means an event which results in either a decreased rate of cerebral blood flow or decreased oxygen content of cerebral arterial blood for a sustained period.

intracranial space-occupying lesion means a pathological entity occupying volume within the cranial cavity, including intracranial aneurysm, neoplasm and abscess.

iron overload means an accumulation of excess iron in tissues and organs which has been confirmed by elevated ferritin or transferrin saturation levels.

Note: Causes include haemochromatosis and blood transfusions.

moderate to severe alcohol use disorder means a psychiatric disorder characterised by a problematic pattern of alcohol use leading to clinically significant impairment or distress, as manifested by at least 4 of the following criteria, occurring within a 12-month period:

- (a) alcohol is often taken in larger amounts or over a longer period than was intended;
- (b) there is a persistent desire or unsuccessful efforts to cut down or control alcohol use;

- (c) a great deal of time is spent in activities necessary to obtain alcohol, use alcohol, or recover from its effects;
- (d) craving, or a strong desire or urge to use alcohol;
- (e) recurrent alcohol use resulting in a failure to fulfil major role obligations at work, school, or home;
- (f) continued alcohol use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol;
- (g) important social, occupational, or recreational activities are given up or reduced because of alcohol use;
- (h) recurrent alcohol use in situations in which it is physically hazardous;
- (i) alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol; or
- (j) tolerance, defined by either:
 - (i) a need for markedly increased amounts of alcohol to achieve intoxication or desired effect; or
 - (ii) a markedly diminished effect with continued use of the same amount of alcohol.

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

reflex seizure means a seizure that is consistently and repeatedly triggered by a specific stimulus or a specific repetitive task.

relevant service means:

- (a) operational service under the VEA;
- (b) peacekeeping service under the VEA;
- (c) hazardous service under the VEA;
- (d) British nuclear test defence service under the VEA;
- (e) warlike service under the MRCA; or
- (f) non-warlike service under the MRCA.

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

specific repetitive task means the specific task involving intense concentration which has in this person consistently and repeatedly triggered their reflex seizures. The specific task includes playing video games.

specific sensory stimulus means the specific stimulus which has in this person consistently and repeatedly triggered their reflex seizures. The specific stimulus may be a visual, auditory, autonomic, somatosensory, olfactory, gustatory or vestibular stimulus, such as intermittent photic stimulation, reading or hearing music.

specified list of central nervous system vascular lesions means:

- (a) cerebral venous thrombosis;
- (b) cerebrovascular accident;
- (c) subarachnoid haemorrhage; or
- (d) subdural haematoma.

specified list of medical conditions means:

- (a) Creutzfeldt-Jakob disease;

- (b) Huntington's chorea;
- (c) iron overload;
- (d) Parkinson's disease and secondary parkinsonism;
- (e) posterior reversible encephalopathy syndrome;
- (f) sarcoidosis; or
- (g) sickle-cell disease.

Note: *iron overload* is also defined in the Schedule 1 – Dictionary.

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.

type 1 diabetes mellitus means a form of diabetes mellitus caused by complete or near-total insulin deficiency and requiring daily administration of insulin.

type 2 diabetes mellitus means a form of diabetes mellitus caused by variable degrees of insulin resistance and impaired insulin secretion.

VEA means the *Veterans' Entitlements Act 1986*.