

PRESUMPTIVE
Conditions



LEGAL HELP FOR VETERANS, PLLC

ABOUT THE FIRM: FIGHTING EXCLUSIVELY FOR VETERANS' RIGHTS

Legal Help For Veterans, PLLC is a law firm dedicated to assisting our Nation's veterans receive the veterans disability compensation to which they are entitled based on their service to the country.

The law firm has been assisting veterans since 1998. Our legal staff has decades of experience in dealing with medical disability matters and employs a network of medical specialists, many former military physicians, who can ensure your claim has the best likelihood of success. Our staff includes former officers and enlisted personnel, health care professionals, and dedicated individuals.

Brigadier General Carol Ann Fausone (ret.)

Brigadier General Carol Ann Fausone (ret.) served for over 36 years with the U.S. Air Force and Michigan National Guard. As a nurse, her duty assignments took her around the country, and the world, assisting commanders with troop readiness.

We have an acclaimed national practice representing veterans from across the country. This representation occurs at the United States Court of Appeals for Veteran Claims, the Board of Veteran Appeals, and the regional offices throughout the country.

Over the years, Legal Help For Veterans has become a trusted name in the legal community for providing services to veterans. Our lawyers are regularly asked by law schools, bar associations, and veterans' service organizations to lecture and train others to practice in this area.



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WHAT IS A PRESUMPTIVE CONDITION?

- Over the years, the VA realized there are medical conditions that were a result of a veteran's service often in a specific location during a specific conflict at a particular time.
- Conditions on the list are "presumed" to be caused by military service even though there may not be definitive medical reasoning to support the connection to the specific veteran. The only information needed to prove entitlement is that the veteran has the specific condition and service in the area at the designated time.



WHAT ARE “PRESUMPTIVE CONDITIONS?”

If you are diagnosed with a chronic disease within one year of active duty release, you should apply for disability compensation. Examples of chronic disease include arthritis, diabetes or hypertension. Or, if you served continuously for at least 90 days and are diagnosed with amyotrophic lateral sclerosis (ALS) after discharge, you can establish service connection for the disease.

Veterans in the following groups may qualify for “presumptive” disability benefits:

- Former prisoners of war who:
 - Have a condition that is at least 10 percent disabling

- Vietnam Veterans who were:
 - Exposed to Agent Orange
 - Served in the Republic of Vietnam between Jan. 9, 1962, and May 7, 1975

- Atomic Veterans exposed to ionizing radiation and who experienced one of the following:
 - Participated in atmospheric nuclear testing
 - Occupied or were prisoners of war in Hiroshima or Nagasaki
 - Served before Feb. 1, 1992, at a diffusion plant in Paducah, Kentucky, Portsmouth, Ohio or Oak Ridge, Tennessee
 - Served before Jan. 1, 1974, at Amchitka Island, Alaska

- Gulf War Veterans who:
 - Served in the Southwest Asia Theater of Operations
 - Have a condition that is at least 10 percent disabling by Dec. 31, 2021

PRESUMED CONDITIONS

Former Prisoners of War	Vietnam Veterans	Atomic Veterans	Gulf War Veterans	Gulf War Deployed Veterans
<p><i>Imprisoned for any length of time:</i></p> <ul style="list-style-type: none"> • Psychosis • Any anxiety state • Dysthymic disorder • Organic residuals of frostbite • Post- traumatic osteoarthritis • Heart disease or hypertensive vascular disease • Stroke and the residual effects <p><i>Imprisoned for at least 30 days:</i></p> <ul style="list-style-type: none"> • Beriberi • Chronic dysentery • Helminthiasis • Malnutrition (including optic atrophy) • Pellagra • Other nutritional deficiencies • Irritable bowel syndrome • Peptic ulcer disease • Peripheral neuropathy • Cirrhosis of the liver 	<ul style="list-style-type: none"> • AL amyloidosis • B-cell leukemia • Chronic lymphocytic leukemia • Type 2 diabetes • Hodgkin’s disease • Ischemic heart disease • Non-Hodgkin’s lymphoma • Parkinson’s disease • Parkinsonism • Prostate cancer • Respiratory cancers • Soft-tissue sarcoma (not including osteosarcoma, chondrosarcoma, Kaposi’s sarcoma or mesothelioma) • Bladder Cancer • Hypothyroidism <p><i>The following conditions, if they become greater than 10 percent debilitating within a year of exposure to an herbicide agent:</i></p> <ul style="list-style-type: none"> • Acute and subacute peripheral neuropathy • Chloracne or other similar acneform disease • Porphyria cutanea tarda 	<ul style="list-style-type: none"> • All forms of leukemia, except chronic lymphocytic leukemia • Cancer of the thyroid, breast, pharynx, esophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary tract, brain, bone, lung, colon or ovary • Bronchiolo-alveolar carcinoma • Multiple myeloma • Lymphomas, other than Hodgkin’s disease • Primary liver cancer, except if there are indications of cirrhosis or hepatitis B 	<p><i>Medically unexplained chronic multi-symptom illnesses that exist for six months or more, such as:</i></p> <ul style="list-style-type: none"> • Chronic fatigue syndrome • Fibromyalgia • Irritable bowel syndrome • Any diagnosed or undiagnosed illness that warrants a presumption of service connection, as determined by the Secretary of Veterans Affairs <p><i>Signs or symptoms of an undiagnosed illness include:</i></p> <ul style="list-style-type: none"> • Fatigue • Skin symptoms • Headaches • Muscle pain • Joint pain • Neurological symptoms • Sleep disturbance • GI symptoms • Cardiovascular symptoms • Weight loss • Menstrual disorders 	<p><i>Served any length of time in the qualifying area and a condition below becomes manifest to any degree within 10 years from the date of separation from service:</i></p> <ul style="list-style-type: none"> • Asthma • Rhinitis • Sinusitis, to include rhinosinusitis

ELIGIBLE LOCATIONS

To qualify for the Presumptive Conditions List, Veterans must have served in or near certain areas at specific times. Following are the locations that meet the requirements for certain exposures and conditions:

- Within 10 miles of Hiroshima or Nagasaki, Japan (1945-1946)
- Eniwetok (1951-1952, 1956-1959)
- Camp Lejeune, North Carolina (August 1, 1953- December 31, 1987)
- Anywhere in Vietnam or Thailand where Agent Orange (AO) was used (1962-1975)
- In or near Korean Demilitarized Zone (1968-1971)
- Amchitka Island, AK (1974)
- Southwest Asia (1990-1991)
- Stationed in Paducah, KY, Portsmouth, OH, or K25 at Oak Ridge, Tennessee (1992)
- Afghanistan (2001-Present)



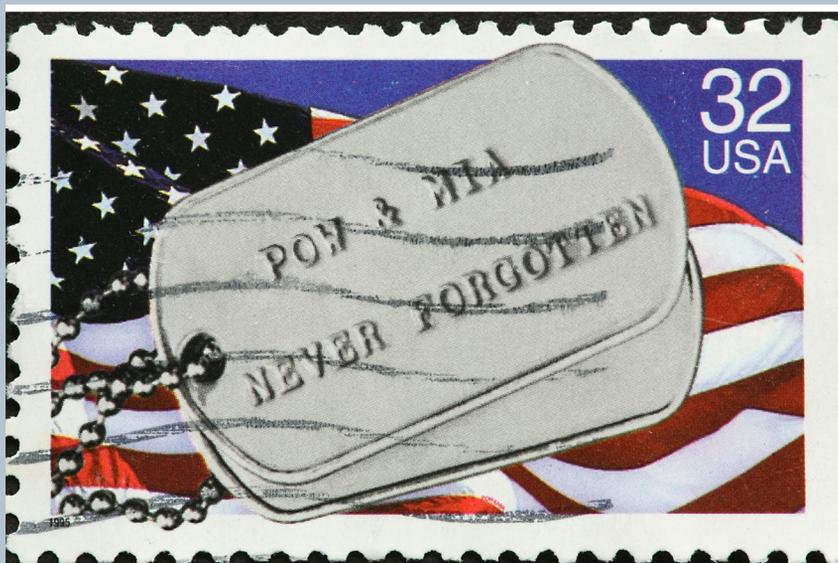
PRISONERS OF WAR

If a former POW, regardless of the amount of time they were held in captivity, has any of the following conditions, the VA will presume that the condition was caused by their captivity:

- Psychosis
- Dysthymic disorder, or depressive neurosis
- Post-traumatic osteoarthritis
- Any of the Anxiety States
- Cold Injury
- Stroke and complications
- Heart Disease and complications

If a POW was imprisoned for more than 30 days, it is presumed that any of the following conditions were caused by their captivity:

- Avitaminosis
- Chronic Dysentery
- Helminthiasis
- Malnutrition, including associated Optic Atrophy Deficiency
- Peptic Ulcer Disease
- Beriberi
- Cirrhosis of the Liver
- Irritable Bowel Syndrome
- Pellagra and any other nutritional deficiency
- Peripheral Neuropathy, except where directly related to infectious causes



VIETNAM

Presumptives from Agent Orange

Veterans who served in Vietnam, Thailand, or Korea and were exposed to Agent Orange (AO) are qualified for presumptive conditions. Veterans must have served in Vietnam between January 9, 1962 and May 7, 1975 or in or near the Korean DMZ in herbicide areas between April 1, 1968 and August 31, 1971. "In Vietnam" is classified as ANY TIME on the ground in Vietnam or in the brown waters offshore. Blue Water Navy Veterans will soon receive these assumptions based on case law. **THE 90 DAY RULE DOES NOT APPLY TO VETERANS EXPOSED TO AGENT ORANGE.** Agent Orange conditions/illnesses on the Presumptive list include:

➤ AL Amyloidosis	➤ Non-Hodgkin's Lymphoma
➤ Bladder Cancer	➤ Parkinson's Disease
➤ Chronic B-cell Leukemias	➤ Parkinsonism
➤ Chloracne	➤ Peripheral Neuropathy, Early Onset
➤ Diabetes Mellitus Type 2	➤ Porphyria Cutanea Tarda
➤ Hodgkin's Disease	➤ Prostate Cancer
➤ Hypothyroidism	➤ Lung & Other Respiratory Cancers
➤ Ischemic Heart Disease	➤ Soft Tissue Sarcomas
➤ Multiple Myeloma	➤ Spina Bifida

VIETNAM

Non-AO Presumptive Amyotrophic Lateral Sclerosis (ALS)

Because of the increased rates and likelihood of ALS amongst veterans, ANY veteran who develops ALS at any time after service is eligible for benefits because of the presumptive illness. Unlike with Agent Orange related illnesses, veterans must have served their 90 consecutive days to be eligible for compensation.



ATOMIC VETERANS

Atomic Veterans refers to veterans who have been exposed to certain radiation during their time in service. Currently, there are 21 different types of cancer that have been deemed a result of exposure to radiation. The VA has identified locations that may prove that an individual was exposed to radiation:

- Participated in onsite nuclear testing, including presence at the test site, on ships, aircraft or equipment in support of the nuclear test, at the nuclear test site within 6 months after the test, or participated in the decontamination of equipment used during a nuclear test
- Was within 10 miles of Hiroshima or Nagasaki between August 4, 1945 and July 1, 1946
- Was a prisoner of war in Japan within 75 miles of Hiroshima or 150 miles of Nagasaki, worked within those areas, or were repatriated through the port of Nagasaki between August 6, 1945 and July 1, 1946
- Was monitored with a dosimetry badge for radiation exposure on the grounds of a gaseous diffusion plant in Paducah, KY, Portsmouth, OH, or K25 at Oak Ridge, TN for at least 250 days before February 1, 1992
- Performed a job with as much exposure as a dosimetry badge monitor on the grounds of a gaseous diffusion plant in Paducah, KY, Portsmouth, OH, or K25 at Oak Ridge, TN for at least 250 days before February 1, 1992
- Was exposed to radiation from underground nuclear tests on Amchitka Island, AK before January 1, 1974
- Served in the garrison or maintenance forces at Eniwetok from June 21, 1951 to July 1, 1952 or August 7, 1956 to August 7, 1957 or November 1, 1958 to April 30, 1959

ATOMIC VETERANS

Nonpresumptive Cancers or Conditions

An Atomic Veteran is defined in legislation as a Veteran who, as part of his or her military service:

- Participated in an above-ground nuclear test, 1945–1962; or
- Was part of the U.S. military occupation forces in/around Hiroshima/Nagasaki before 1946; or
- Was held as a POW in or near Hiroshima or Nagasaki (certain cases)

If you have developed a “nonpresumptive cancer or condition,” VA will consider additional factors to determine your entitlement to compensation based on radiation exposure. These include the amount of your radiation exposure and the elapsed time between exposure and the onset of disease. An estimate of your radiation dose will be prepared by the Nuclear Test Personnel Review (NTPR) Program. That estimate is based on scientific principles, records maintained by the Department of Defense, and information you provide to VA and the Defense Threat Reduction Agency (DTRA), which runs NTPR.

In some cases, a cancer on the presumptive list may require a dose estimate in order for VA to establish entitlement. Most often, this is necessary if the date of diagnosis occurred before the date that the specific disease was added to the presumptive list. Also, some nonmalignant conditions (such as nonmalignant thyroid nodular disease, posterior subcapsular cataract, and parathyroid adenoma) may be eligible for compensation

Go to <https://www.va.gov/disability/how-to-file-claim/> to file a claim.

GULF WAR

The VA Presumptive List divides Gulf War illness conditions into two categories: Gulf War Syndrome and Infectious Diseases. The two classifications have very different conditions regarding qualifications for compensation.



GULF WAR

The first, and more ambiguous, of the classifications of Gulf War related illnesses is regarding Gulf War Syndrome. Because Gulf War Veterans serving in Southwest Asia began developing random, chronic symptoms that could not be diagnosed, the term Gulf War Syndrome was coined. If a clinical diagnosis can be made, then the symptoms do NOT constitute Gulf War Syndrome.

Veterans must have the chronic symptoms recurring for a period of 6 months before they can be identified with Gulf War Syndrome. Symptoms include:

- Fatigue
- Skin symptoms
- Headaches
- Muscle pain
- Joint pain
- Neurological symptoms
- Mental symptoms
- Respiratory symptoms
- Trouble sleeping
- Cardiovascular symptoms
- Abnormal weight loss
- Menstrual disorders
- Gastrointestinal symptoms



GULF WAR

Infectious Diseases

There are other infectious diseases that have been identified on the Presumptive List for veterans who served in Southwest Asia as well as in Afghanistan after September 19, 2001. These diseases must manifest to 10% or more within in a year of service. These diseases include:

- Brucellosis
- Campylobacter Jejuni
- Coxiella Burnetii (Q fever)
- Malaria (must be manifest to 10% within 1 year or the incubation period must have clearly begun while in Southwest Asia or Afghanistan)
- Tuberculosis (no time limit for manifestation)
- Nontyphoid Salmonella
- Shigella
- Visceral Leishmaniasis (no time limit for manifestation)
- West Nile Virus



GULF WAR

Camp Lejeune Related Illnesses

After a lengthy battle with the VA, veterans exposed to contaminated drinking water at Camp Lejeune in North Carolina are eligible to receive presumptive benefits. Veterans must have been stationed there for more than 30 cumulative days between August 1, 1953 and December 31, 1987. Thus far, eight diseases are covered:

- Adult leukemia
- Aplastic anemia and other myelodysplastic syndromes
- Bladder cancer
- Kidney cancer
- Liver cancer
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Parkinson's disease



GULF WAR

A Gulf War Veteran is one who served any length of time in the qualifying area and a condition below becomes manifest to any degree within 10 years from the date of separation from service:

- Asthma
- Rhinitis
- Sinusitis, to include rhinosinusitis



*“It is our duty to
protect those
who protected
us.”*

- Brigadier General

Carol Ann Fausone (ret.)



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