



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
INTERVERTEBRAL DISC PROLAPSE
(Balance of Probabilities)
(No. 44 of 2016)

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

Dated 22 April 2016

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

A handwritten signature in black ink, appearing to read 'N. Saunders'.

Professor Nicholas Saunders AO
Chairperson

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1 Name

This is the Statement of Principles concerning *intervertebral disc prolapse (Balance of Probabilities)* (No. 44 of 2016).

2 Commencement

This instrument commences on 23 May 2016.

3 Authority

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

4 Revocation

The Statement of Principles concerning intervertebral disc prolapse No. 40 of 2007, as amended, made under subsections 196B(3) and (8) of the VEA is revoked.

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 intervertebral disc prolapse and death from intervertebral disc prolapse.

Meaning of intervertebral disc prolapse

- (2) For the purposes of this Statement of Principles, intervertebral disc prolapse means:
- (a) protrusion, herniation or rupture of the nucleus pulposus or annulus fibrosis of an intervertebral disc into the vertebral canal of the cervical, thoracic or lumbar spine, causing one or more of the following:
 - (i) local pain or stiffness;
 - (ii) clinical evidence of nerve root compression; or
 - (iii) clinical evidence of spinal cord compression; and
 - (b) excludes bulging of the intervertebral disc and Schmorl's nodes.

- (3) While intervertebral disc prolapse attracts ICD-10-AM code M50.0, M50.1, M50.2, M51.0, M51.1 or M51.2, in applying this Statement of Principles the meaning of intervertebral disc prolapse is that given in subsection (2).
- (4) For subsection (3), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification (ICD-10-AM)*, Ninth Edition, effective date of 1 July 2015, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-020-5.

Death from intervertebral disc prolapse

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

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 intervertebral disc prolapse and death from intervertebral disc prolapse can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: *relevant service* is 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, intervertebral disc prolapse or death from intervertebral disc prolapse is connected with the circumstances of a person's relevant service:

- (1) having a trauma to the relevant disc within the 24 hours before the clinical onset of intervertebral disc prolapse;

Note: *trauma to the relevant disc* is defined in the Schedule 1 - Dictionary.

- (2) having a penetrating injury to the relevant disc or adjacent vertebral body, within the 24 hours before the clinical onset of intervertebral disc prolapse;

Note: *penetrating injury to the relevant disc or adjacent vertebral body* is defined in the Schedule 1 - Dictionary.

- (3) physically carrying or lifting loads of at least ten kilograms, to a cumulative total Load-Factor of at least 300 000, within the five years before the clinical onset of intervertebral disc prolapse;

Note: *Load-Factor* is defined in the Schedule 1 - Dictionary.

- (4) for intervertebral disc prolapse of the cervical spine only:
- (a) using a hand-held, vibrating, percussive, industrial tool for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical onset of intervertebral disc prolapse; or
 - (b) flying in high performance aircraft for a cumulative total of at least 1 000 hours within any ten year period before the clinical onset of intervertebral disc prolapse, and where the clinical onset of intervertebral disc prolapse occurs within the 25 years following that period;

Note: *high performance aircraft* is defined in the Schedule 1 - Dictionary.

- (5) driving a motor vehicle for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical onset of intervertebral disc prolapse;

Note: *motor vehicle* is defined in the Schedule 1 - Dictionary.

- (6) flying a powered aircraft for a cumulative total of at least 5 000 hours within the ten years before the clinical onset of intervertebral disc prolapse;
- (7) flying in a helicopter as operational aircrew, for a cumulative total of at least 5 000 hours within the ten years before the clinical onset of intervertebral disc prolapse;
- (8) smoking at least ten pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical onset of intervertebral disc prolapse, and where smoking has ceased, the clinical onset of intervertebral disc prolapse has occurred within five years of cessation;

Note: *pack-years of cigarettes, or the equivalent thereof in other tobacco products* is defined in the Schedule 1 - Dictionary.

- (9) having bacterial infection of the relevant disc at the time of the clinical worsening of intervertebral disc prolapse;
- (10) being obese for at least five years within the 25 years before the clinical onset of intervertebral disc prolapse;

Note: *being obese* is defined in the Schedule 1 - Dictionary.

- (11) having a trauma to the relevant disc within the 24 hours before the clinical worsening of intervertebral disc prolapse;

Note: *trauma to the relevant disc* is defined in the Schedule 1 - Dictionary.

- (12) having a penetrating injury to the relevant disc or adjacent vertebral body, within the 24 hours before the clinical worsening of intervertebral disc prolapse;

Note: *penetrating injury to the relevant disc or adjacent vertebral body* is defined in the Schedule 1 - Dictionary.

- (13) physically carrying or lifting loads of at least ten kilograms, to a cumulative total Load-Factor of at least 300 000, within the five years before the clinical worsening of intervertebral disc prolapse;

Note: *Load-Factor* is defined in the Schedule 1 - Dictionary.

- (14) for intervertebral disc prolapse of the cervical spine only:

- (a) using a hand-held, vibrating, percussive, industrial tool for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical worsening of intervertebral disc prolapse; or
- (b) flying in high performance aircraft for a cumulative total of at least 1 000 hours within any ten year period before the clinical worsening of intervertebral disc prolapse, and where the clinical worsening of intervertebral disc prolapse occurs within the 25 years following that period;

Note: *high performance aircraft* is defined in the Schedule 1 - Dictionary.

- (15) driving a motor vehicle for an average of at least 30 hours per week, for a period of at least two years within the ten years before the clinical worsening of intervertebral disc prolapse;

Note: *motor vehicle* is defined in the Schedule 1 - Dictionary.

- (16) flying a powered aircraft for a cumulative total of at least 5 000 hours within the ten years before the clinical worsening of intervertebral disc prolapse;

- (17) flying in a helicopter as operational aircrew, for a cumulative total of at least 5 000 hours within the ten years before the clinical worsening of intervertebral disc prolapse;

- (18) smoking at least ten pack-years of cigarettes, or the equivalent thereof in other tobacco products, before the clinical worsening of intervertebral disc prolapse, and where smoking has ceased, the clinical worsening of intervertebral disc prolapse has occurred within five years of cessation;

Note: *pack-years of cigarettes, or the equivalent thereof in other tobacco products* is defined in the Schedule 1 - Dictionary.

- (19) having bacterial infection of the relevant disc at the time of the clinical worsening of intervertebral disc prolapse;

- (20) being obese for at least five years within the 25 years before the clinical worsening of intervertebral disc prolapse;

Note: *being obese* is defined in the Schedule 1 - Dictionary.

- (21) inability to obtain appropriate clinical management for intervertebral disc prolapse.

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(11) to 9(21) apply only to material contribution to, or aggravation of, intervertebral disc prolapse where the person's intervertebral disc prolapse 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:

being obese means having a Body Mass Index (BMI) of 30 or greater.

BMI means W/H^2 and where:

W is the person's weight in kilograms; and

H is the person's height in metres.

G force means the ratio of the applied acceleration of the aircraft to the acceleration due to gravity, for example, $2G = 2 \times 9.81\text{m/s}^2$.

high performance aircraft means an aircraft capable of generating an acceleration force (G force) of four G or more, during routine, normal operations.

Note: *G force* is also defined in the Schedule 1 - Dictionary.

intervertebral disc prolapse—see subsection 7(2).

Load-Factor means $W^2 \times T$, where:

W is the weight of the load lifted or carried in kilograms; and

T is the time the load was lifted or carried in hours.

motor vehicle means a motorised vehicle which imparts vibration to the whole body, such as a car, truck, motor cycle, tractor, jeep, armoured personnel carrier, tank, or a construction vehicle, such as a forklift, bulldozer, crane, steam shovel, backhoe or steam roller.

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

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.

pack-years of cigarettes, or the equivalent thereof in other tobacco products means a calculation of consumption where one pack-year of cigarettes equals 20 tailor-made cigarettes per day for a period of one calendar year, or 7 300 cigarettes. One tailor-made cigarette approximates one gram of tobacco or one gram of cigar or pipe tobacco by weight. One pack-year of tailor-made cigarettes equates to 7.3 kilograms of smoking tobacco by weight. Tobacco products mean cigarettes, pipe tobacco or cigars, smoked alone or in any combination.

penetrating injury to the relevant disc or adjacent vertebral body means piercing of the relevant disc or adjacent vertebral body by objects such as a bullet, knife or needle.

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.

trauma to the relevant disc means an injury, including G force-induced injury, to the affected intervertebral disc that causes the development of symptoms and signs of pain, and tenderness, and either altered mobility or range of movement of that part of the spine. These symptoms and signs must last for a period of at least seven days following their onset; save for where medical intervention for the trauma to the relevant disc has occurred and that medical intervention involves either:

- (a) immobilisation of that part of the spine by splinting, or similar external agent;
- (b) injection of corticosteroids or local anaesthetics into that part of the spine; or
- (c) surgery to that part of the spine.

Note: ***G force*** is also defined in the Schedule 1 - Dictionary.

VEA means the *Veterans' Entitlements Act 1986*.