



**Australian Government**  
**Repatriation Medical Authority**

**Statement of Principles**  
**concerning**  
**DIAPHRAGMATIC HERNIA**  
**(Balance of Probabilities)**  
**(No. 100 of 2022)**

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

Dated 21 October 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 *diaphragmatic hernia (Balance of Probabilities)* (No. 100 of 2022).

## **2 Commencement**

This instrument commences on 21 November 2022.

## **3 Authority**

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

## **4 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.

## **5 Definitions**

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

## **6 Kind of injury, disease or death to which this Statement of Principles relates**

- (1) This Statement of Principles is about diaphragmatic hernia and death from diaphragmatic hernia.

### *Meaning of diaphragmatic hernia*

- (2) For the purposes of this Statement of Principles, diaphragmatic hernia:
- (a) means an acquired protrusion of intra-abdominal tissue through the diaphragm into the thoracic cavity; and
  - (b) excludes:
    - (i) congenital diaphragmatic hernia;
    - (ii) eventration of the diaphragm; and
    - (iii) hiatus hernia.

### *Death from diaphragmatic hernia*

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

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

## 7 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 diaphragmatic hernia and death from diaphragmatic hernia 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.

## 8 Factors that must exist

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

- (1) having a surgical procedure that involves the affected region of the diaphragm, excluding the oesophageal hiatus, within the 10 years before the clinical onset of diaphragmatic hernia;

Note: Examples of surgical procedures that can involve the affected region of the diaphragm include liver resection, debulking surgery in ovarian cancer, nephrectomy, biopsy of a lesion on the diaphragmatic peritoneum and coronary artery bypass grafting.

- (2) having acute trauma to the affected region of the diaphragm before the clinical onset of diaphragmatic hernia;

Note: Examples of acute trauma include falling from a height, motor vehicle accidents and gunshot or stab wounds.

- (3) having endometriosis involving the affected region of the diaphragm before the clinical onset of diaphragmatic hernia;

- (4) having a surgical procedure that involves the affected region of the diaphragm, excluding the oesophageal hiatus, within the 10 years before the clinical worsening of diaphragmatic hernia;

Note: Examples of surgical procedures that can involve the affected region of the diaphragm include liver resection, debulking surgery in ovarian cancer, nephrectomy, biopsy of a lesion on the diaphragmatic peritoneum and coronary artery bypass grafting.

- (5) having acute trauma to the affected region of the diaphragm before the clinical worsening of diaphragmatic hernia;

Note: Examples of acute trauma include falling from a height, motor vehicle accidents and gunshot or stab wounds.

- (6) having endometriosis involving the affected region of the diaphragm before the clinical worsening of diaphragmatic hernia;

- (7) being pregnant within the 6 weeks before the clinical worsening of diaphragmatic hernia;

- (8) inability to obtain appropriate clinical management for diaphragmatic hernia.

**9 Relationship to service**

- (1) The existence in a person of any factor referred to in section 8, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 8(4) to (8) apply only to material contribution to, or aggravation of, diaphragmatic hernia where the person's diaphragmatic hernia was suffered or contracted before or during (but did not arise out of) the person's relevant service.

**10 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 8 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 5

## 1 Definitions

In this instrument:

***diaphragmatic hernia***—see subsection 6(2).

***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.

Note: ***MRCA*** and ***VEA*** are 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.

***VEA*** means the *Veterans' Entitlements Act 1986*.