



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

**Statement of Principles**  
**concerning**  
**EPILEPSY**  
**(Balance of Probabilities)**  
**(No. 85 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 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 (Balance of Probabilities)* (No. 85 of 2022).

**2 Commencement**

This instrument commences on 19 September 2022.

**3 Authority**

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

**4 Repeal**

The Statement of Principles concerning epilepsy No. 76 of 2013 (Federal Register of Legislation No. F2013L01895) made under subsection 196B(3) of the VEA is repealed.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 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**

On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that epilepsy and death from epilepsy 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, epilepsy or death from epilepsy is connected 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 30 days 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 10 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 5 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 at the time of the clinical onset of epilepsy;

Note: *type 1 diabetes mellitus* is defined in the Schedule 1 – Dictionary.

- (18) consuming at least 150 kilograms of alcohol within the 10 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.

- (19) 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.

- (20) having a moderate to severe traumatic brain injury before the clinical worsening of epilepsy;
- (21) having concussion within the 20 years before the clinical worsening of epilepsy;
- (22) 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.

- (23) having a surgical procedure which involves a craniotomy or cranioplasty before the clinical worsening of epilepsy;
- (24) having brain radiotherapy to treat primary or secondary brain neoplasia or to treat brain arteriovenous malformation before the clinical worsening of epilepsy;
- (25) having an hypoxic cerebral insult within the 30 days before the clinical worsening of epilepsy;

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

- (26) having a central nervous system vascular lesion from the specified list of central nervous system vascular lesions within the 10 years before the clinical worsening of epilepsy;

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

- (27) 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.

- (28) having an infection of the brain or meninges within the 5 years before the clinical worsening of epilepsy;
- (29) having infection with human immunodeficiency virus at the time of the clinical worsening of epilepsy;
- (30) having septicaemia at the time of the clinical worsening of epilepsy;
- (31) having an intracranial space-occupying lesion before the clinical worsening of epilepsy;

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

- (32) having dementia as specified at the time of the clinical worsening of epilepsy;

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

- (33) 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.

- (34) having obstructive sleep apnoea at the time of the clinical worsening of epilepsy;

- (35) having tetramine poisoning before the clinical worsening of epilepsy;

- (36) having type 1 diabetes mellitus at the time of the clinical worsening of epilepsy;

Note: *type 1 diabetes mellitus* is defined in the Schedule 1– Dictionary.

- (37) 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.

- (38) consuming at least 150 kilograms of alcohol within the 10 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.

- (39) inability to use continuous positive airway pressure (CPAP) ventilation for diagnosed sleep apnoea, at the time of the clinical worsening of epilepsy;

- (40) 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(20) to 9(40) 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(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:

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

***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.

***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) 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.

**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.

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