



## Veterans and Bladder Cancer webinar

Tuesday March 1, 2016

### Part III: Navigating the VA System for Veterans with Bladder Cancer

Presented by



**Dr. Thomas J. Berger** is a lifetime member of the Vietnam Veterans of America (the VVA), the founding member of the VVA chapter in Kansas City, Missouri where he served as a Navy corpsman in the 3<sup>rd</sup> Marine Corps Division in Vietnam. Following his military service and upon completion of his post-doctoral studies, Tom Berger held faculty research and administrative appointments at the University of Kansas in Lawrence, Kansas; the State University system of Florida in Tallahassee, and the University of Missouri-Columbia as well as program administrator positions in the Illinois Easter Seals and United Cerebral Palsy programs. After serving as chair of the Vietnam Veterans of America National PTSD and Substance Abuse Committee for about a decade, he joined the staff of the VVA national office as a senior policy analyst for veteran's benefits and mental health issues in 2008. In 2009, he was appointed as executive director of the Vietnam Veteran's Health Council, whose primary mission is to improve the healthcare of America's veterans through education and information.

I really appreciate the efforts by the Bladder Cancer Advocacy Network for putting this show on today, and I want to give my thanks to Dr. Taylor and Ms. Dimick for their contributions. So, one of the questions that came in over the course of our planning for this webinar was, "How many Vets are currently in the VA system being treated or being diagnosed from bladder cancer?" You can see in front of you that there's approximately 3,500 vets diagnosed or being treated for bladder cancer each year in the VA, with a sizeable percent of those vets having non-invasive bladder cancer.



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## Background: Toxic Exposures

### Herbicides Used in Vietnam

"Rainbow" Herbicides	Agent Blue
Agent Pink	a mixture of two arsenic-containing compounds, sodium cacodylate and cacodylic acid, sprayed primarily on narrow-leaved plants such as rice, bamboo, bananas, and other grasses
Agent Green	
Agent Purple	
Agent Orange	
Agent White	
Phenoxy herbicides	

Some estimates claim 19.6 million gallons were used between 1962 and 1971



Here's some background on toxic exposures. For those of you who are not familiar, the herbicides listed on this slide are often referred to as "Rainbow" herbicides because of a particular color band that was painted around the top of the 55-gallon drums in which these chemicals were delivered to Vietnam. All of those in the left-hand column that are identified as phenoxy herbicides are different from Agent Blue, which Dr. Taylor [please see Part 1] hinted at earlier. The ones on the left hand side are petrol chemical-based, whereas Agent Blue is a mixture of two arsenic-containing compounds. It was used primarily on narrow-leaved plants such as rice, bamboo, bananas and other grasses—particularly the food crops. Even though the RAND Corporation in 1967 indicated "Be Careful!" about using arsenic compounds, some estimates claim that 19.6 million gallons of Agent Blue were used between 1962 and 1971 in Vietnam and related war-zone countries.

Dr. Taylor hinted at this and gave you some of the risk factors earlier, so this is a re-hash of those. Tobacco use, exposure to chemicals tied to military service and other occupations (so called aromatic amines). Drinking water containing arsenic and schistosomiasis, which is carried by a liver fluke found primarily in the river Nile in high concentrations now that the Aswan Dam has been up and operating for about 50 years. Because Agent Blue was NOT listed in the Agent Orange Act of 1991, bladder cancer is NOT on the VA's AO (Agent Orange) list of presumptive illnesses.

### Bladder Cancer, Agent Blue and the VA

**Risk factors** potentially tied to military service include:

- Tobacco use
- Exposure to chemicals tied to military service and other occupations (aromatic amines)
- Drinking water containing arsenic
- Schistosomiasis

But because Agent Blue was NOT listed in the Agent Orange Act of 1991, bladder cancer is not on the VA's AO list of presumptive illnesses



### How do exposure-related illnesses become VA presumptive?

Under guidelines in the A.O. Act of 1991:

- Every two years scientists review literature regarding toxic chemical and biological exposure and diseases, e.g., Agent Orange and spina bifida
- Review is forwarded to VA Secretary to determine whether or not a disease or illness is added to the list of presumptives

Even though the last several I.O.M. panels have been asked by various veterans advocates and veterans service organizations to review the literature re: Agent Blue exposure and bladder cancer, bladder cancer has NOT been added to the list of presumptives



How do exposure-related illnesses become VA presumptive? Under the terms of the AO Act of 1991, every two years a group of scientists are empaneled by the VA to review the literature regarding toxic chemical and biological exposures and their relationship to diseases. One of these examples is exposure to Agent Orange and spina bifida that occurs in the children both male and female veterans exposed to Agent Orange. Once the panel takes a look at all this information gathered over a two year period, the review is forwarded to the VA Secretary who then determines whether or not a disease or illness is added to the list of presumptives. It's important to recognize that the VA Secretary has the authority here; it is not the IOM panels'—it is the Secretary's and only the Secretary's prerogative to determine whether or not a disease can be added to the list of presumptives. Even though over the last several years, different IOM panels have been asked by veteran's advocates, veteran's service organizations to review the literature about agent blue exposure and bladder cancer, bladder cancer still remains not added to the list of presumptives.

Before I jump into this slide about VA Claims for Exposure, let me just say a couple of words regarding the process itself. Over the years, many veterans have applied for service connection for bladder cancer based on exposure to Agent Blue, only to be denied because it's not identified in the AO Act of 1991. The VA has subsequently used this fact as a means of denial, although there are a number of studies that link bladder cancer with arsenic contact or exposure.

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## Bladder Cancer, Agent Blue and the VA

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At this current time, bladder cancer is not on the Agent Orange presumptive list for illnesses caused by service during the Vietnam era and one's exposure to Agent Blue. Now, some of the reasons the VA gives—when I'm talking about the VA I'm talking about the Veteran's Benefits Administration now, a branch of the VA—according to current VVA (Vietnam Veterans of America) thinking, there are too many factors that increase the risk for bladder cancer among service men and women, and as Dr. Taylor said before and I said a few minutes ago, include tobacco

use; chemicals in certain occupations, such as those used in textile, rubber, leather, dye, paint and print

industries, aromatic amines; people who have chronic bladder problems such as bladder stones are also at a higher risk. And there are certain chemotherapies and diabetes drugs that also have a previous history of bladder cancer, and as I said schistosomiasis found primarily in Egypt, and of course drinking water containing arsenic.

Now, how do I file a claim? **The first step, and I can't stress how important this is, but GET HELP.** Use a *certified veteran service officer*. If you try to fill out a claim, you'll find yourself becoming extremely frustrated. Veteran service officers are trained—99% of the time they have to take and pass certain kinds of tests that qualify them to become a certified veteran service officer. Please use a certified veteran service officer to help you present your claim to the VA. Choose that representative carefully, ask

questions about his or her claim experience and get a feel for your representative by talking to him or her about claims for exposures to toxic chemicals. The other thing I would say is to stay personally involved in your case—make certain everything that should be done is done. Communicate regularly with your representative. And, very importantly, make copies of all documents used in the claim and keep them in a safe place in the event of any of your paperwork getting lost—because we know that sometimes, on occasion, the VA “can't find” paperwork.

**Step two: APPLY!** If you believe you are entitled to compensation benefits under the VA's Agent Orange rules and have never previously filed a VA disability claim, or if you have filed a claim and it was denied, then make sure that the review of that claim gets started. And again, use a certified veteran service officer. Next, finish the claim application process. It's really important—once the VA receives your claim, you will be eventually sent a VA form entitled “The Official Application for Compensation and Pension”. Generally speaking, you have one year from the date the VA mailed you the form to fill it out and return it to the nearest VA regional office. Do not send it to a hospital. I repeat: do not send it to a hospital. Send it to the nearest VA regional office.

Follow the advice of your service officer representative **in completing the form.** You have the right to review your military service records and any other records in your VA file before completing the form. And again, make sure to make copies for your records. During this claims process, all communication and submission of documents to the VA should be coordinated with your a certified veteran service representative. If you're approaching a deadline and are unable to contact your representative, call their national office or contact the VA. Do NOT miss a deadline.

## VA Claims for Exposure to Agent Blue and Bladder Cancer

Step 1: GET HELP! Use a certified veteran service officer

Step 2: APPLY!

Step 3: FINISH THE CLAIM APPLICATION PROCESS

Step 4: GATHER THE EVIDENCE

Step 5: ORGANIZE THE EVIDENCE

Please note that the VA recognizes other presumptions for diseases caused by other exposures and service in other areas of the world, which can be found at 38 CFR§3.309



**Step four: gather the evidence.** Collecting evidence to support your claim can be time consuming and frustrating, but it is absolutely essential in getting your claim. Once the VA regional office receives your VA form, it should determine whether or not your claim is plausible. The VA is legally required to help you gather the evidence, but don't count on the VA to assist you. You and your representative should attempt to obtain all of your private, post-military service and your VA medical records, along with all your military personnel and medical records. These records should be provided directly to your veteran service officer so that your representative can determine which documents should be submitted to the VA regional office to support your claim. Make a copy for your records. If you can't find your military personnel or medical records, you can do that by sending in a request to the National Personnel Records Center in St. Louis, Missouri.

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**Next step: ORGANIZE the evidence.** The assistance of your veteran service representative is to organize your evidence and arguments in written form for presentation to the VA regional office. If the VA regional office determines that your disability is NOT service related, or if the evaluation of your disability is lower than you think is fair, you have the right to appeal to the Board of Veteran's Appeals in Washington DC. And there's a whole process that goes with the Board of Appeals' claim process that I'm not going to go into now, but you should check with your veteran's service officer. I want to note that the VA recognizes other assumptions for diseases caused by other exposures and service in other area of the world and that these can be found at 38 CFR Section 3.309. Work with your service officer to get that information.

I want to say a couple things about the availability of veteran service officers. Many of our veteran service organizations have a list of their certified veteran service officers. This includes Vietnam Veterans of America, the American Legion, AMVETS, Disabled American Veterans, Military Order of the Purple Heart, Paralyzed Veterans of America, and of course the VFW, or the Veterans of Foreign Wars. If you can't find out how to contact any of them, you can also contact the National Veteran's Legal Services Project (NVLSP). They're located in Washington, DC and they will also represent you at no cost to make sure that the VA gives you the earliest possible effective date for compensation and health benefits related to exposures. In addition, some of you may have asked about other agencies or organizations in your state they may be able to help you. Many states have a commission, division or department of Veterans Affairs that provides representation to veterans and their families. And in some states, that representative is located in the county, state or federal government facility. So you can look in the government pages of your local telephone directory, or just call directly to any of the veteran's service organizations I mentioned, and tell them to put you in contact with a certified veteran's service officer nearest your locality.