PRESumptive Conditions
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.

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.

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.
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WHAT IS A PRESUMPTIVE CONDITION?

• Over the years, the VA realized there were conditions that were a result of a veteran’s service in a specific location during a specific conflict at a particular time. In 2010, Secretary of Veterans Affairs Eric K. Shinseki announced the Department of Veterans Affairs was taking steps to make it easier for Veterans to obtain disability compensation for certain diseases in the form of the Presumptive Conditions List.

• 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:
  o Have a condition that is at least 10 percent disabling

• Vietnam Veterans who were:
  o Exposed to Agent Orange

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

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

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<th>Former Prisoners of War</th>
<th>Vietnam Veterans</th>
<th>Atomic Veterans</th>
<th>Gulf War Veterans</th>
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| Imprisoned for any length of time: | • Psychosis  
• Any anxiety state  
• Dysthymic disorder  
• Organic residuals of frostbite  
• Post-traumatic osteoarthritis  
• Heart disease or hypertensive vascular disease  
• Stroke and the residual effects | • AL amyloidosis  
• B-cell leukemia  
• Chronic lymphocytic leukemia  
• Type 2 diabetes  
• Hodgkin’s disease  
• Ischemic heart disease  
• Non-Hodgkin’s lymphoma  
• Parkinson’s disease  
• Prostate cancer  
• Respiratory cancers  
• Soft-tissue sarcoma (not including osteosarcoma, chondrosarcoma, Kaposi’s sarcoma or mesothelioma) | • 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 |

The following conditions, if they become greater than 10 percent debilitating within a year of exposure to an herbicide agent:  
• Acute and subacute peripheral neuropathy  
• Chloracne or other similar acneform disease  
• Porphyria cutanea tarda  

Medically unexplained chronic multi-symptom illnesses that exist for six months or more, such as:  
• 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  

Signs or symptoms of an undiagnosed illness include:  
• Fatigue  
• Skin symptoms  
• Headaches  
• Muscle pain  
• Joint pain  
• Neurological symptoms  
• Sleep disturbance  
• GI symptoms  
• Cardiovascular symptoms  
• Weight loss  
• Menstrual disorders
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:

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

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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:

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<td>Parkinson’s Disease</td>
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<td>Ischemic Heart Disease</td>
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<td>Soft Tissue Sarcomas</td>
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<td>Multiple Myeloma</td>
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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.
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
The VA Presumptive List divides Gulf War conditions into two categories: Gulf War Syndrome and Infectious Diseases. The two classifications have very different conditions regarding qualifications for compensation.
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
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 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
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
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 http://vabenefits.vba.va.gov/vonapp to file a claim.
The VA has been considering adding more Agent Orange related conditions to the presumptive list. These include conditions such as bladder cancer, hypothyroidism, Parkinson's-like symptoms, and high blood pressure. If you are a Vietnam Veteran exposed to Agent Orange and have developed one of these conditions, make sure to keep an eye out for the VA’s decisions as you may be eligible for more compensation.

Other non-Agent Orange related illnesses may also be added to the list.
“It is our duty to protect those who protected us.”

- Brigadier General Carol Ann Fausone (ret.)