Veterans with Cancer Inc.
Advocacy & Awareness

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Addressing the Need for Equity Among Veterans

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Introduction

When a person joins the Canadian Armed Forces (CAF), they accept the concept of Unlimited Liability, which means they may have to risk their lives or those of their subordinates to accomplish missions assigned by the Government of Canada. This unique aspect distinguishes military service from other professions in Canada. In return, the Government of Canada has a duty, to provide services, assistance, and compensation to members and veterans who have been injured or died due to military service. Veterans Affairs Canada (VAC) was established to perform this critical role. We believe that VAC can do more in this area when it comes to veterans who develop cancer as a result of their exposure to carcinogens while in service.

Cancer is often a terminal illness that can progress despite treatment or tumor removal, making it imperative to have an expedited evaluation process for cancer-related claims. The U.S. PACT Act addresses this need by establishing a list of hundreds of presumptive conditions linked to toxic exposures such as burn pits, Agent Orange, and other carcinogens. Under the PACT Act, veterans only need to provide their military service records to establish a connection between their service and the condition, eliminating the need for extensive medical evidence to prove causality.

In contrast, Canadian veterans with cancer face a far more prolonged and complicated process. Cancer claims are burdened by traditional injury claim procedures, making processing time significantly longer. For example, one of our members has been navigating the process for three years. and the veteran's file is still under assessment review with VAC at this time. Other veterans report similar experiences, highlighting the need for an expedited process for those with cancer. Some veterans, who develop cancer as a result of their exposure to carcinogens during service, don't have the time to make it through a lengthy process.

> *"I know at least 20 people from 2023 till now with cancer or have passed. I'm only one person. All served with me in Bosnia 2000/2001 and 2003 my other deployment was Ukraine in 2004." … Richard Dean Irvine, CD*

Background

The distinction between chemical injuries and traditional physical injuries is important. For instance, if a veteran loses an arm in combat, the cause-and-effect relationship between the injury and military service is clear. However, if a veteran is exposed to a carcinogenic chemical and develops cancer 20 years later, establishing a link between the exposure and the disease becomes far more complex. Unlike battlefield injuries, which have few civilian equivalents, delayed chemical injuries have multiple potential causes, many of which are common in the general population. This complexity likely explains why the U.S. PACT Act includes hundreds of presumptive conditions, facilitating faster claims processing by providing automatic awards to veterans who develop one of these conditions due to exposure to known environmental hazards.

The Canadian legislation, the Veterans Well-Being Act, more specifically paragraph 50(g) of the Regulation, provides veterans with cancer with automatic awards provided that the environmental hazard that they were exposed to reasonably caused their cancer. An objective observer might wonder: if paragraph 50(g) is already broad, why does it

not provide the same consideration as the PACT Act? After all, Canadian legislation appears to be superior in that it does not limit claims to a set list of conditions as required by the PACT Act. The American veteran however only needs to prove that they have at least one of the presumptive conditions listed in the Act and were exposed to an environmental hazard as defined by the Act.

The Problem

The problem, however, lies not in the legislation itself but in interpreting a certain subjective phrase in paragraph 50(g). Specifically, the subjective phrase *"reasonably caused the injury"* has been inconsistently interpreted by VAC staff and VRAB panels. As a result, veterans have been required to provide additional evidence, such as a medical opinion linking their cancer to their military service — something few oncologists can fulfill.

For example, in a 2015 VRAB decision (100002226018), a veteran's claim for prostate cancer resulting from exposure to carbon tetrachloride was denied, despite strong evidence that the substance is a carcinogen. Yet in 2024 both VRAB and VAC have granted entitlement for nearly identical cases involving prostate cancer from exposure to carbon tetrachloride. This is a good example of the inconsistency in interpreting when it comes to the subjective phrase *"reasonably caused".*

The Solution

The key issue is the inequity in the treatment of cancer claims between Canadian and American veterans. To address this, we recommend a two-step solution:

1. **Short-Term:** VAC immediately issues an Executive Directive, to clarify the subjective phrase, *"reasonably caused the injury"* in paragraph 50(g) of the Regulation, using our proposed Interpretation shown below, and
2. **Long-Term:** Parliament entrenches the above Directive in legislation by amending the Veterans Well-Being Regulation.

By doing so Canadian veterans will receive the same consideration and benefits as their American counterparts while reducing the backlog of claims and expediting the process for all veterans.

Proposed Interpretation

We believe that the phrase *"that might reasonably have caused the injury"* in paragraph 50(g) of the Regulation should be interpreted as follows:

If a veteran was exposed to:

- *Burn pits, oil fires, or similar hazards in service (e.g., in Afghanistan, SW Asia, Bosnia, or the Persian Gulf); or*
- *Carcinogens identified by credible organizations such as the International Agency for Research on Cancer (IARC) or chemical herbicides like Agent Orange,*

Then the veteran's exposure shall be presumed to have "reasonably caused" their cancer. Claims meeting these criteria shall proceed to the assessment phase to determine the appropriate award.

The Supporting Argument

The subjective phrase *"reasonably have caused"* has been inconsistently interpreted over the years, in the context of determining whether a veteran's exposure to a chemical agent might have led to cancer. For adjudicators at Veterans Affairs Canada (VAC) or panels of the Veterans Review and Appeal Board (VRAB), this lack of clarity has often resulted in

unfair outcomes for veterans, particularly those who were exposed to hazardous environments such as burn pits, or chemical agents recognized by credible cancer research organizations.

Subjectivity Leads to Inconsistent and Unfair Outcomes

The term *"reasonably"* inherently invites subjective judgment. Each adjudicator or panel may have differing opinions about what is reasonable, influenced by their perspectives, knowledge, or biases. This variability creates an inconsistent standard for determining whether a veteran's cancer is service-related. Veterans with similar exposures and diagnoses can receive drastically different outcomes depending on who is interpreting their case.

For example, one adjudicator might require near-definitive scientific proof of causation to determine that an exposure *"reasonably caused"* a veteran's cancer, while another might find a credible association between the exposure and cancer sufficient. This inconsistency erodes trust in the system and denies benefits to veterans who should otherwise qualify. Interpreting *"reasonably have caused"* to include presumptive standards based on exposure to burn pits or recognized carcinogens creates a clear, consistent, and fair framework. It removes the guesswork from adjudication and ensures that veterans exposed to known hazards are treated equitably. By adopting this approach, VAC and VRAB can fulfill their moral and legal obligation to those who have served.

Conclusions

The subjective nature of the phrase "reasonably have caused" has led to unfair and inconsistent outcomes for veterans. Incorporating presumptive standards for exposures to burn pits or recognized carcinogens ensures fairness, consistency, and justice for all veterans who have sacrificed for their country.

Once VAC issues an Executive Directive providing a clear interpretation of the subjective phrase, *"reasonably caused their injury"* and automatically approves claims for veterans with cancer who meet the exposure criteria, Canadian veterans will finally receive the support and recognition they have long needed.

However, a VAC Executive Directive is not sufficient. To ensure the longevity of this important change it must be followed by legislation to entrench our proposed interpretation of *"reasonably caused"* in the Veterans Well-Being Act by amending paragraph 50(g) of the Veterans Well-Being Regulation.