Mesothelioma and the Law:

“Things Doctors Need to Know”

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I. The Cause of Mesothelioma is Asbestos

Abstract title: A case-control study of malignant Mesothelioma in subjects with no known Exposure to asbestos

Discussion and Conclusions

Very few people have never been exposed to asbestos and careful elucidation of occupational and environmental histories usually uncovers exposures sufficient to cause MM. It seems likely that most cases of MM in people with no known exposure to asbestos occur, at a very low rate, among the huge numbers of people who have had small amounts of asbestos exposure.

II. The Mesothelioma Diagnosis Imposes Legal and Ethical Obligations on Physicians

A. The California Labor Code §6409 - Duty to Submit Report

(a) Every physician as defined in Section 3209.3 who attends any injured employee shall file a complete report of every occupational injury or occupational illness to the employee with the employer, or if insured, with the employer’s insurer, on forms prescribed for that purpose by the Division of Labor Statistics and Research. A portion of the form shall be completed by the injured employee, if he or she is able to do so, describing how the injury or illness occurred. The form shall be filed within five days of the initial examination.
(c) The reports required by this Section shall be made on Form 5021, Rev. 4, Doctor’s First Report of Occupational Injury or Illness.

Failure to file a timely doctor’s report may result in assessment of a civil penalty.

Any employer or physician who fails to comply with any provision of subdivision (a) of Section 6409, or Section 6409.1, 6409.2, 6409.3 or 6410 may be assessed a civil penalty of not less than fifty dollars ($50) nor more than two hundred dollars ($200) by the director or his or her designee if he or she finds a pattern or practice of violations, or a willful violation of any of these provisions.
II. The Mesothelioma Diagnosis Imposes Legal and Ethical Obligations on Physicians

B. Washington and Nevada Statutory Duty to Advise Patients of Their Legal Rights

**Washington Statute — Worker’s Application for Compensation — Physician to Aid In**

51.28.020

- **51.28.020.** Worker’s application for compensation — Physician to aid in

(b) The physician who attended the injured worker shall inform the injured worker of his or her rights under this title and lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the worker.

**Nevada Statute — Duty of Physician or Chiropractor to Advise Injured Employee of Rights**

616C.095

- **616C.095.** Duty of physician or chiropractor to advise injured employee of rights.

The physician or chiropractor shall inform the injured employee of his rights under chapters 616A to 616D, inclusive, or chapter 617 of NRS and lend all necessary assistance in making application for compensation and such proof of other matters as required by the rules of the division, without charge to the employee.

C. Ethical Obligation to Advise Patients of Their Legal Rights
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Actions Required after Diagnosis
The diagnosis of asbestosis, in particular, imposes a duty to inform the patient that he or she has a disease that is work-related, to report the disease, and to inform the patient that he or she may have legal or adjudication options for compensation.

D. The Importance of Death
Certificate Statements About the Cause of Death

California Health & Safety Code
§ 103550

§ 103550. Original or certified copy as evidence
Any birth, fetal death, death, or marriage record that was registered within a period of one year from the date of the event under the provisions of this part, or any copy of the record or part thereof, properly certified by the State Registrar, local registrar, or county recorder, is prima facie evidence in all courts and places of the facts stated therein. Added by Stats. 1985, c. 415 (S.B. 1360), §4.
§ 27491. Classification of deaths requiring inquiry; determination of cause; signature on death certificate; exhumation; notice to coroner of cause of death

It shall be the duty of the coroner to inquire into and determine the circumstances, manner and cause of all deaths from occupational diseases or occupational hazards. Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.
History

denial, n. 1. A refusal or rejection; a repudiation

Causation for Asbestos-Related Claims

In an asbestos-related cancer case, the plaintiff need not prove that fibers from the defendant’s product were the ones, or among the ones, that actually began the process of malignant cellular growth. [Name of plaintiff] may prove that exposure to asbestos from [name of defendant]’s product was a substantial factor causing [his/her] illness by showing, through expert testimony, that there is a reasonable medical probability that the exposure contributed to [his/her] risk of developing cancer.

B. Cause vs. Risk

Jury Instructions: CACI 435

CAUSATION FOR ASBESTOS-RELATED CANCER CLAIMS

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IV. Physician Exposure:
The Doctor as Patient

In Memoriam —
Lyle N. Yates, M.D.
V. What Patients Need to Know:

Google, The Internet, and you.
Sponsored Links

Who are they really?

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Law firms

Mesotheioma Lawsuit
www.Mesothelioma.biz Experienced Mesothelioma Lawyers

Mesotheioma Diagnosis?
MesotheliomaLawFirm.com Proven Track Record

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Law firms

Mesotheioma Attorney

Mesotheioma Treatment
Free treatment information, top doctor listings, and more. www.mesotheliometreatment.com

Mesotheioma Information
Contact advice for Mesothelioma Patients. Center. As seen on TV. www.MesotheliomaLawFirm.com

Mesotheioma Patients

Mesotheioma Attorney

Mesotheioma Settlement

Sites from NON - Sponsored Links

Mesotheioma Lawsuit
www.Mesothelioma.biz Experienced Mesothelioma Lawyers

Mesotheioma Diagnosis?
MesotheliomaLawFirm.com Proven Track Record

Mesotheioma Attorney

Mesotheioma Treatment
Free treatment information, top doctor listings, and more. www.mesotheliometreatment.com

Mesotheioma Information
Contact advice for Mesothelioma Patients. Center. As seen on TV. www.MesotheliomaLawFirm.com

Mesotheioma Patients

Mesotheioma Attorney

Mesotheioma Settlement
Sites from NON-Sponsored Links

Mesothelioma - Asbestos.com - The Leading Mesothelioma Center Today
Mesothelioma Cancer Center offers the most comprehensive patient information on mesothelioma and asbestos exposure.
www.asbestos.com - 554 - Cached - Similar pages

Mesothelioma - Cancer Pleural, Peritoneal & Pericardial Mesothelioma
Mesothelioma is a rare type of cancer that develops in cells known as mesothelial cells. Almost all forms of mesothelioma are caused by asbestos exposure.
www.mesothelioma.com - 492 - Cached - Similar pages

Mesothelioma.com - The Asbestos & Mesothelioma and Asbestos Cancer Comprehensive Information Site on Mesothelioma diagnosis, treatment, coping, asbestos disease and financial assistance.
www.mesothelioma.com - 774 - Cached - Similar pages

Mesothelioma News - Presented by the Law Firm of Baron & Budd, P.C.
Mesothelioma news is designed to bring you comprehensive information on a full range of topics about mesothelioma, including treatment, support.
www.mesotheliomane ws.com - 344 - Cached - Similar pages

Who's left? Who's left?

LEGITIMATE NON-PROFITS

Mesothelioma - Wikipedia, the free encyclopedia
Mesothelioma is a form of cancer that is almost always caused by previous exposure to asbestos. In this disease, malignant cells develop in the mesothelium, the lining of the body cavities containing body fluids. The word "mesothelioma" refers to malignant tumors that develop from mesothelial cells.
www.mesothelioma - 345 - Cached - Similar pages

Mesothelioma - Questions and Answers - National Cancer Institute
BB

MedicinePlus: Mesothelioma
Provides the definition, symptoms, risk factors, complications, and treatment options. Includes illustrations.

Mesothelioma - MayoClinic.com
Mesothelioma — Comprehensive overview covers malignant mesothelioma, including peritoneal and pleural types of this cancer.
www.mayoclinic.com/health/mesothelioma/DS00778 - 284 - Cached - Similar pages

LAWYERS PRETENDING TO BE NON-PROFITS?

Mesothelioma - www.mesotheliomabooks.org
Mesothelioma Web: The Most Comprehensive Mesothelioma Website

Mesothelioma - Mesothelioma Expert Treatment, Top Doctors, and New Shaped Exposure
Find treatment for mesothelioma, determine the cause of asbestos cancer, obtain financial compensation for pleural mesothelioma.
mesothelioma org - 166 - Cached - Similar pages

LEGITIMATE NON-PROFITS
Malignant mesothelioma

Malignant mesothelioma is an aggressive, treatment-resistant tumor, which is increasing in frequency throughout the world. Although the main risk factor is asbestos exposure, a small, unexplained group of cases, could have a wide variation.

Mesothelioma has an unusual molecular pathology with loss of tumor suppressor genes leading the predominant pattern of tumors, especially the $p53^R143$, and $p16^in$ and $p15^in$ genes, which help to define mesothelioma (p53 and BFRF2). The role of these genes in the molecular pathogenesis of the tumors is well documented. However, as with other tumors, it is often difficult to diagnose. The role of endoscopic and transbronchial biopsies in the diagnosis of mesothelioma is often very difficult. Patients typically present with dyspnea and chest pain and physical examination. Malignant cells are not present in sputum or pleural fluid, making diagnosis of mesothelioma challenging.

Information Resources for Physicians and Patients

A. International Mesothelioma Interest Group
B. International Ban Asbestos Secretariat
C. World Asbestos Report
D. Asbestos Disease Awareness Organization
Thank you for your attention!

Copies of these slides are available at:
www.kazanlaw.com/ucsf

Questions?
Please email me at:
skazan@kazanlaw.com