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ORDER

Readjudication of the service connection claim for multiple myeloma is warranted.

Readjudication of the service connection claim for monoclonal paraproteinemia /monoclonal gammopathy is warranted.

Readjudication of the service connection claim for anemia is warranted.

Readjudication of the service connection claim for a heart condition is warranted.

Readjudication of the service connection claim for high cholesterol is warranted.

Readjudication of the service connection claim hypertension is warranted.

Readjudication of the service connection claim for reticulonodular infiltrate is warranted.

Readjudication of the service connection claim for multiple lung nodules is warranted.

Readjudication of the service connection claim for bronchitis is warranted.

Readjudication of the service connection claim for skin cancer is warranted.

Readjudication of the service connection claim for skin condition is warranted.

Readjudication of the service connection claim for diabetes mellitus II is warranted.

Entitlement to service connection for high cholesterol, diagnosed as hypercholesterolemia, is denied.

Entitlement to service connection for hypertension is granted pursuant to the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxins Act of 2022 (PACT Act).

Without presumptions offered by the PACT Act, entitlement to service connection for hypertension is denied.

Entitlement to service connection for diabetes is granted pursuant to the PACT Act.

Without presumptions offered by the PACT Act, entitlement to service connection for diabetes is denied.

Entitlement to service connection for monoclonal gammopathy of undetermined significance (MGUS)/multiple myeloma is granted pursuant to the PACT Act.

Without presumptions offered by the PACT Act, entitlement to service connection for MGUS/multiple myeloma is denied.

Entitlement to service connection, to include on a secondary basis, for anemia, is granted pursuant to the PACT Act.

Without presumptions offered by the PACT Act, entitlement to service connection, to include on a secondary basis, for anemia, is denied.

Entitlement to service connection, to include on a secondary basis, for a heart condition diagnosed as atrial fibrillation, is granted pursuant to the PACT Act.

Without presumptions offered by the PACT Act, entitlement to service connection, to include

on a secondary basis, for a heart condition diagnosed as atrial fibrillation, is denied.

Entitlement to service connection, to include on a secondary basis, for skin cancer is granted pursuant to the PACT Act.

Without presumptions offered by the PACT Act, entitlement to service connection for skin cancer, to include as due to herbicide/other chemical and sun exposure, is denied.

Entitlement to service connection for reticulonodular infiltrate, to include as due to herbicide and other chemical exposure, is denied.

Entitlement to service connection for multiple lung nodules, to include as due to herbicide and other chemical exposure, is denied.

Entitlement to service connection for bronchitis, to include as due to herbicide and other chemical exposure, is denied.

REMANDED

Entitlement to service connection for skin condition, to include tinea corporis, dermatitis and psoriasis, is remanded.

FINDINGS OF FACT

1. New evidence was received after the April 2014 rating decision that is relevant to the issue of entitlement to service connection for multiple myeloma.

2. New evidence was received after the February 2021 rating decision that is relevant to the issues of entitlement to service connection for monoclonal paraproteinemia/monoclonal gammopathy, anemia, heart condition, high cholesterol, hypertension, reticulonodular infiltrate, multiple lung nodules, bronchitis, skin cancer, skin condition and diabetes.

3. Hypercholesterolemia, or high cholesterol, is a laboratory finding and the evidence does not show the condition has resulted in impairment of earning capacity, any disability or disease, or been a manifestation of a disease or injury.

4. The Veteran had service in Thailand and, pursuant to the PACT Act, is presumed to have been exposed to herbicide agents. He has diagnoses for hypertension, diabetes and MGUS/multiple myeloma.

5. Without presumptions offered by the PACT Act, the Veteran's diabetes is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

6. Without presumptions offered by the PACT Act, the Veteran's hypertension is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

7. Without presumptions offered by the PACT Act, the Veteran's MGUS/multiple myeloma is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

8. The Veteran's anemia is secondary to his MGUS, a service-connected condition pursuant to the PACT Act.

9. Without presumptions offered by the PACT Act, the Veteran's anemia is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

10. The Veteran's atrial fibrillation is secondary to his hypertension, a service-connected condition pursuant to the PACT Act.

11. Without presumptions offered by the PACT Act, the Veteran's atrial fibrillation is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

12. The Veteran had service in Thailand and, pursuant to the PACT Act, is presumed to have been exposed to herbicide agents. His diagnosed skin cancer is shown to be etiologically related to his presumed exposure to herbicides.

13. Without presumptions offered by the PACT Act, the Veteran's skin cancer is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

14. The Veteran's reticulonodular infiltrate is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

15. The Veteran's bronchitis is not shown to have originated in service, within a year of service, and is not otherwise etiologically related to his active service.

16. The Veteran's multiple lung nodules are not shown to have originated in service, within a year of service, and are not otherwise etiologically related to his active service.

CONCLUSIONS OF LAW

1. The criteria for readjudicating the service connection claims for multiple myeloma, monoclonal paraproteinemia/monoclonal gammopathy, anemia, heart condition, high cholesterol, hypertension, reticulonodular infiltrate, multiple lung nodules, bronchitis, skin cancer, skin condition and diabetes have been met. 38 C.F.R. § 3.156(d).

2. The criteria for entitlement to service connection for hypercholesterolemia have not been met. 38 U.S.C. §§ 1110, 5107; 38 C.F.R. §§ 3.102, 3.303.

3. Pursuant to the PACT Act, the criteria for entitlement to service connection for hypertension have been met. 38 U.S.C. §§ 1110, 1112, 1113, 5107; 38 C.F.R. §§ 3.102, 3.303, 3.307, 3.309; PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022).

4. On a basis other than pursuant to the PACT Act, the criteria for service connection for hypertension have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

5. Pursuant to the PACT Act, the criteria for entitlement to service connection for diabetes have been met. 38 U.S.C. §§ 1110, 1112, 1113, 5107; 38 C.F.R. §§ 3.102, 3.303, 3.307, 3.309; PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022).

6. On a basis other than pursuant to the PACT Act, the criteria for service connection for diabetes have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

7. Pursuant to the PACT Act, the criteria for entitlement to service connection for MGUS/multiple myeloma have been met. 38 U.S.C. §§ 1110, 1112, 1113, 5107; 38 C.F.R. §§ 3.102, 3.303, 3.307, 3.309; PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022).

8. On a basis other than pursuant to the PACT Act, the criteria for service connection for MGUS/multiple myeloma have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

9. Pursuant to the PACT Act, the criteria for entitlement to service connection for anemia have been met. 38 U.S.C. §§ 1110, 1112, 1113, 5107; 38 C.F.R. §§ 3.102, 3.303, 3.307, 3.309; PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022).

10. On a basis other than pursuant to the PACT Act, the criteria for service connection for anemia have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

11. Pursuant to the PACT Act, the criteria for entitlement to service connection for atrial fibrillation have been met. 38 U.S.C. §§ 1110, 1112, 1113, 5107; 38 C.F.R. §§ 3.102, 3.303,

3.307, 3.309; PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022).

12. On a basis other than pursuant to the PACT Act, the criteria for service connection for atrial fibrillation have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

13. Pursuant to the PACT Act, the criteria for entitlement to service connection for skin cancer have been met. 38 U.S.C. §§ 1110, 1112, 1113, 5107; 38 C.F.R. §§ 3.102, 3.303, 3.307, 3.309; PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022).

14. On a basis other than pursuant to the PACT Act, the criteria for service connection for skin cancer have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

15. The criteria for service connection for reticulonodular infiltrate have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

16. The criteria for service connection for bronchitis have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

17. The criteria for service connection for multiple lung nodules have not been met. 38 U.S.C. §§ 1110, 5103, 5103A, 5107; 38 C.F.R. §§ 3.102, 3.159, 3.303.

REASONS AND BASES FOR FINDINGS AND CONCLUSIONS

The Veteran served on active duty from September 1966 to June 1968.

This matter is before the Board of Veterans' Appeals (Board) on appeal from October 2020 and April 2021 rating decisions by a Department of Veterans Affairs Regional Office (RO).

Within the framework of the Appeals Modernization Act (AMA), in October 2021, the appellant submitted VA Form 10182, Decision Review Request Board Appeal (Notice of Disagreement), and elected a hearing lane review by a Veterans Law Judge. 38 C.F.R. § 19.2(d). In this regard, the Board notes that under the hearing lane option, the Board will consider evidence received at the hearing or within 90 days following the hearing.

The requested Board hearing was held in November 2022. A copy of the transcript of that hearing has been associated with the claims file.

New and Relevant

The Veteran asserts that he submitted evidence that is new and relevant and warrants readjudication of his service connection claims on appeal.

VA will readjudicate a claim if new and relevant evidence is presented or secured. 38 C.F.R. § 3.156(d). "Relevant evidence" is evidence that tends to prove or disprove a matter in issue. 38 C.F.R. § 3.2501(a)(1).

By way of history, the Veteran filed a service connection claim for multiple myeloma due to herbicide exposure in December 2013. That claim was denied in an unappealed April 2014 rating decision on the basis that the evidence did not show a current diagnosis for which VA had found a positive association to herbicide exposure.

The Veteran filed service connection claims in May 2020 with regard to the remaining issues on appeal, and asserted that the conditions were due to in-service herbicide exposure which occurred while he was stationed in Thailand. He further asserted that the conditions were due to insecticides that were routinely sprayed at his camp resulting in a poisonous fog that "permeated" throughout his body. In a July 2020 letter, he stated that he served in the Republic of Vietnam. He also asserted that his camp was sprayed weekly with a chemical that created a hazing fog that took a long time to dissipate. Exposure to the fog reportedly burned his eyes, caused blurry vision, made it difficult to breathe and caused nausea.

Thereafter, an October 2020 rating decision denied the service connection claim for multiple myeloma on the basis that new and relevant evidence had not been received. Specifically, the evidence continued to not show a diagnosis for multiple myeloma. With regard to the remaining issues on appeal, those claims were denied in a February 2021 rating decision on the basis that in-service exposure to herbicides had not been shown (monoclonal paraproteinemia, heart condition, hypertension, high cholesterol, multiple lung nodules, skin cancer, psoriasis, diabetes), and/or on the basis that there was no evidence that the condition was associated with herbicide exposure (hemolytic anemia, reticulonodular infiltrate, bronchitis). The February 2021 rating decision further denied service connection for high cholesterol on the basis that it was not a disease or disability recognized by VA for compensation purposes.

Evidence added to the claims file since the October 2020 and February 2021 rating decisions includes resubmitted private medical records in March 2021, updated VA medical records, testimony provided during the November 2022 Board hearing and a November 2022 private medical opinion letter submitted in December 2022. The private medical opinion provides positive nexus opinions and raises several secondary service connection claims with regard to multiple myeloma, hemolytic anemia, hypercholesterolemia (high cholesterol), hypertension, heart condition, skin cancer and skin condition.

Additionally, since the October 2020 and February 2021 rating decisions, the President of the United States signed into law the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxins Act of 2022 (PACT Act). The PACT Act added service in Thailand to the list of locations where servicemen and servicewomen were presumptively exposed to herbicide agents during the Vietnam era without regard to military occupational specialty (MOS). See Pub. L. 117-168, § 403(d)(2) (2022).

With regard to these issues on appeal, the Board finds this evidence is new because it was not previously before the agency decision makers, and that it is relevant because it directly relates to the issue of herbicide exposure. Accordingly, new and relevant evidence has been received in order to readjudicate the service connection claims on appeal, and the petition to readjudicate these claims is granted.

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Service Connection

With regard to the claims on appeal, the Veteran asserts exposure to herbicides and insecticides while stationed in Thailand. See May 2020 Claim and November 2022 Board Hearing Transcript. His military personnel records show he served in the Army and was stationed at Camp Essayons, Thailand, from June 1967 to June 1968. See also, January 2021 Research Response. His military occupational specialty (MOS) was cook.

During the Board hearing, the Veteran testified that while at Camp Essayons, his duties required him to leave his base approximately two to three times per week to deliver food to troops who were building a supply route. He also testified that his work and living area was within 100 meters of the perimeter. In addition, during this time, he reported observing chemicals for mosquitos being sprayed three times per week which created a fog, and that he had trouble breathing and felt nauseous after spraying occurred. He further testified that he occasionally traveled to Korat RTAFB approximately 25 times in 22 months, and his representative stated that he would have traveled across the base perimeter approximately 25 to 50 times.

In a December 2022 Brief, the representative further asserted that service connection was warranted prior to enactment of the PACT Act as the Veteran had duties on or near the perimeter of his base. In this regard, the representative stated that the M21 manual did not provide a definition or specify distance related to "near the perimeter" and noted the Veteran had provided a written statement that he served near and went through the perimeter of multiple bases in Thailand. Additionally, the representative asserted that "near the perimeter" encompassed up to 500 meters and cited a 1971 Department of the Army document titled, "Tactical Employment of Herbicides Field Manual."

With regard to the Veteran's confirmed service in Thailand, the Board notes that prior to the PACT Act, there were no statutory or regulatory presumptions regarding herbicide exposure in Thailand. However, a veteran who served in Thailand during the Vietnam War Era

was may have been exposed to herbicide agents if: (1) the veteran was in the Air Force, (2) the veteran served at the RTAFB of U-Tapao, Ubon, Nakhon Phanom, Udorn, Takhli, Korat, or Don Muang, and (3) the veteran served as a security policeman, security patrol dog handler, or member of a security police squadron, or otherwise served near a base perimeter, as shown by the Veteran's MOS, daily work duties, performance evaluations, or other credible evidence.

Initially, the Board notes that the Veteran did not serve in the Air Force. Additionally, he was not stationed at any of the designated RTAFBs. As such, the Board does not find herbicide exposure based on service in Thailand under the facts of this case.

Even if the Board were to consider the Veteran's lay statements as to occasionally traveling to Korat RTAFB, VA specifically did not extend the presumption to all service members who served there (e.g. traveled through the gates to enter the base, or worked in view of the perimeter), but instead found it should be provided to those members whose duties actually placed them on the perimeter where they would come in contact with sprayed areas; the M21-1 provides examples of such service. Although the term "near" is not defined, based on the M21-1 examples of covered duties, the Board finds it is meant to convey duties which would require regular, routine, extensive, frequent, or prolonged presence on the edge of the base where spraying was used to control vegetation, as suggested by the "evidence of daily work duties."

In this regard, the Veteran does not assert that his duties actually placed him on the perimeter during the occasions that he traveled to Korat RTAFB. The evidence of record additionally does not show that his duties actually placed him on the perimeter on a regular or routine basis, or required him to spend any amount of time on the edge of the base, let alone evidence showing extensive, frequent or prolonged time spent at the perimeter of Korat RTAFB. Instead, he asserts that he traveled through the gate to enter the base to pick up supplies, which does not suggest prolonged presence on the perimeter of the base.

The Board has also considered statements that Camp Essayons was sprayed with herbicides, and that he had trouble breathing and felt nauseous after spraying occurred. However, with regard to lay statements of witnessing and/or experiencing the effects of herbicides being sprayed, the Board is unable to credit his reporting in this instance as he has provided conflicting statements in this matter. Specifically, in a July 2020 letter, he specifically reported that the Camp he witnessed being sprayed with herbicides was located in the Republic of Vietnam, not Thailand. The Veteran's reference to the camp being located in Vietnam was not a simple typographical error as that letter was submitted as evidence of service in Vietnam. The Board finds this discrepancy significant as it directly relates to the time and place of his reported herbicide exposure. Therefore, the Board provides no probative value to the Veteran's reporting in this regard.

In any event, his lay statements as to in-service exposure to herbicides are speculative in nature and do not provide the requisite evidence as such does not show actual exposure to herbicide agents. *Bardwell v. Shinseki*, 24 Vet. App. 36, 40 (2010) (holding that a layperson's assertions indicating exposure to gases or chemicals during service are not sufficient evidence alone to establish that such an event actually occurred during service; where the evidence has failed to establish an in-service injury, disease, or event, VA is not obligated to provide a medical examination).

Accordingly, apart from the presumption of herbicide exposure provided by the PACT Act, the competent and credible evidence of record is against a finding that the Veteran was exposed to herbicide agents while serving in Thailand. The Board is bound by VA law and regulations which do not provide for a presumption of herbicide exposure based on the circumstances of the Veteran's service, and the probative evidence of record does not reflect actual herbicide exposure. Without the benefit of the presumption of herbicide exposure contained in 38 C.F.R. § 3.307(a)(6), the evidence must show that he was personally exposed to an "herbicide agent" as that term is defined in the regulation. However, the evidence of record is insufficient to show actual exposure to an herbicide agent during the Veteran's active duty service.

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Entitlement to service connection for high cholesterol.

High cholesterol is referred to as hypercholesterolemia or hyperlipidemia. Hypercholesterolemia is an "excess of cholesterol in the blood." Dorland's Illustrated Medical Dictionary, 792 (32nd 2012). Hyperlipidemia is "a general term for elevated concentrations of any or all of the lipids in the plasma, including hypertriglyceridemia, hypercholesterolemia, etc." Id. at 887.

In this case, there is no lay or medical evidence suggesting that the Veteran's elevated cholesterol levels has resulted in any impairment in earning capacity during the appeal period. Instead, his hyperlipidemia are laboratory test findings. See 61 Fed. Reg. 20,440, 20,445 (May 7, 1996) ("Diagnoses of hyperlipidemia, elevated triglycerides, and elevated cholesterol are actually laboratory results and are not, in and of themselves, disabilities. They are, therefore, not appropriate entities for the rating schedule.").

The Board acknowledges that high cholesterol may be evidence of an underlying disability or may be a risk factor in the development of certain diseases, but service connection may not be granted for this condition alone, as it is not considered a "disability" for VA purposes. Importantly, the Veteran does not assert that his hypercholesterolemia has caused other diseases.

Conversely, he submitted a November 2022 private opinion letter in which a physician asserted that his hypercholesterolemia was secondary to his diabetes. Specifically, the physician stated that diabetes caused elevated levels of insulin called hyperinsulinemia, and that elevated insulin levels substantially worsened the body's lipid profile and total cholesterol. Additionally, the physician stated that insulin resistance prevented the liver from producing more HDL "good" cholesterol, and allowed the liver to produce large levels of "bad" cholesterol and lipids.

The Court has held that "Congress specifically limits entitlement for service-connected disease or injury to cases where such incidents have resulted in a disability. Indeed, in the absence of proof of a present disability there can be no valid claim." *Brammer v. Derwinski*, 3 Vet. App. at 225.

Therefore, the Board finds the Veteran does not have a current disability for which service connection may be granted, as hypercholesterolemia is not considered a disability for VA purposes. Accordingly, the claim for service connection for hypercholesterolemia is denied.

Entitlement to service connection for hypertension and diabetes.

The Veteran seeks entitlement to service connection for hypertension and diabetes. Specifically, he asserts entitlement on the basis of herbicide and insecticide exposure. See May 2020 Claim and November 2022 Board Hearing Transcript.

Initially, the Board notes that a review of the record, including the service treatment records (STRs) and lay statements, does not show that his hypertension or diabetes began during service or within one year following separation from service, or are otherwise related to service on a direct basis other than due to exposure to herbicides and insecticides. Therefore, entitlement to service connection on a basis other than herbicide or insecticide exposure is not warranted.

The evidence of record shows the Veteran has been diagnosed with essential hypertension that is currently treated with prescription medication. See March 2020 Private Medical Record Received July 2020. A July 2020 VA examination also shows a diagnosis for diabetes mellitus II.

With regard to herbicide exposure, the PACT Act added service in Thailand to the list of locations where servicemen and servicewomen were presumptively exposed to herbicide agents during the Vietnam era without regard to military occupational specialty (MOS). See Honoring our PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022). Thus, the criteria for presumptive service connection for diabetes mellitus are met and the claim is granted on this basis.

Prior to the PACT Act, VA regulations did not provide hypertension as a presumptive disability associated with such exposure. However, the PACT Act does establish hypertension as a presumptive disease for in-service exposure to herbicide agents. The effective and applicability date for the inclusion of hypertension is October 1, 2026. Id.

While hypertension will not be added as a presumptive condition until October 1, 2026, the Board finds entitlement to service connection for hypertension is warranted pursuant to the PACT Act.

With regard to entitlement to service connection on a basis other than pursuant to the PACT Act, the Board concludes that such is not warranted.

As noted above, without the presumption offered by the PACT Act, exposure to herbicides has not been conceded. Therefore, the remaining inquiry on appeal is whether the Veteran's hypertension and diabetes are etiologically related to insecticide exposure.

In this regard, apart from the Veteran's assertion that he was exposed to insecticides, and that such exposure caused his hypertension and diabetes, he has not submitted or cited any medical treatise suggesting any such associations. As such, the Board finds that the mere assertion in this matter did not trigger VA's duty to assist in obtaining a medical opinion. Additionally, the Board affords no probative value to the Veteran's speculative and conclusory etiological statement as it is unsupported by any competent scientific evidence suggesting an etiological association.

Therefore, absent any competent evidence that the Veteran's hypertension and diabetes are etiologically related to his service, without the presumptions of herbicide exposure pursuant to the PACT Act, entitlement to service connection must be denied. See 38 U.S.C. § 5107(b); 38 C.F.R. § 3.102; *Gilbert v. Derwinski*, 1 Vet. App. 49, 58 (1990).

Entitlement to service connection for skin cancer.

The Veteran asserts entitlement to service connection for skin cancer on the basis of herbicide and insecticide exposure. See May 2020 Claim and November 2022 Board Hearing Transcript.

The evidence of record includes STRs which are silent for any complaints, treatment or diagnosis for skin cancer. Additionally, his June 1968 separation examination noted normal skin and the Veteran denied having any skin diseases.

A September 2015 VA medical record shows that skin cancer was removed from an area of his left ear. See VA Medical Records Received January 2023. An October 2019 private dermatology examination revealed the following skin conditions: basal cell carcinoma, actinic keratoses, rosacea, eczematous dermatitis, callus, solar lentigines, and seborrheic keratosis. The record also shows a past medical history for squamous cell carcinoma located on the left ear, basal cell carcinoma located on the trunk, and MIPS located on the trapezial neck. See Private Medical Records Received June 2020.

The Veteran underwent a VA examination in July 2020. He was diagnosed with squamous cell carcinoma, actinic keratosis and psoriasis. He reported the onset of his skin conditions in 1995 with crusty sores that would not heal. He also reported having spots burned off and surgically removed, and that the spots reoccurred.

During the November 2022 Board hearing, the Veteran testified that he had been diagnosed with squamous cell skin cancer which was currently being treated. In this regard, he stated that he had lesions removed from his nose, forehead, behind his ears and on his jaw. He further testified that while he was stationed at Camp Essayons, Thailand, insecticides were sprayed three times per week, and that he experienced skin reactions following applications.

In December 2022, the Veteran submitted a November 2022 letter from Dr. M.S. who stated the Veteran was exposed to herbicides during service, and that herbicides contained many carcinogenic compounds. One such compound, benzene, caused toxicity even where exposure levels were far below acceptable occupational exposure limits. In addition, the compound TCDD was noted to be known as the most toxic of dioxin-related compounds, and that the compound stayed present in the body for long periods of time. Short-term exposure was noted to result in the development of skin lesions, and long-term exposure was noted to be linked to the development of cancers and impairments of major body systems.

With regard to squamous cell skin carcinoma, Dr. M.S. cited a 2014 study showing that 51 percent of veterans exposed to TCDD (either working in areas contaminated by Agent Orange,

engaged in spraying Agent Orange, or traveling through contaminated areas) developed non-melanoma invasive skin cancer such as basal cell and squamous cell carcinomas. This rate was twice as high as the average in men of similar ages. Dr. M.S. further noted that skin cancer risk factors included being fair skinned with a history of sunburn and excessive ultraviolet light exposure. It was noted that the Veteran working long hours in the sun while stationed in Vietnam with post-service sun exposure.

Based on the above, Dr. M.S. stated that there was a very clear causal connection between herbicides and skin cancer. Furthermore, in consideration of the numerous conditions the Veteran had which were attributable to herbicide exposure, Dr. M.S. opined that "it is much more likely than not that said conditions are in fact the direct result of his in-service exposure." In providing the nexus opinion, Dr. M.S. stated he had reviewed the entire claims file, including all treatment records, VA examination and considered the lay statements.

After a review of the evidence of record, the Board finds that entitlement to service connection for skin cancer, other than pursuant to the PACT Act, is not warranted. In this regard, actual exposure to herbicides is not conceded. Accordingly, as Dr. M.S.'s nexus opinion is primarily premised on exposure to herbicides, with regard to the Veteran's unverified herbicide exposure, this opinion is of no probative value.

With regard to Dr. M.S.'s nexus opinion linking the Veteran's skin cancer to in-service sun exposure, the Board finds this opinion unsupported by the evidence of record, and, therefore, speculative in nature. Specifically, Dr. M.S. premised this opinion on a finding that the Veteran reported working long hours in the sun while stationed in Vietnam. However, the Veteran did not serve in Vietnam. He has additionally has not stated, and the evidence does not show, that his MOS of cook required him to work long hours in the sun without use of protective clothing or skin protection. Therefore, this opinion is unsupported by the evidence of record. A medical opinion that is unsupported and unexplained is purely speculative and does not provide the degree of certainty required for medical nexus evidence. See *Nieves-Rodriguez v. Peake*, 22 Vet. App. 295, 304 (2008); see also *Miller v. West*, 11 Vet. App. 345, 348 (1998) (medical opinions must be supported by clinical findings in the record; bare conclusions, even those made by medical professionals, which are not accompanied by a factual predicate in the record, are not probative medical opinions).

Turning to whether his skin cancer is otherwise related to service, the Board has considered the Veteran's statements related to asserted exposure to insecticides. However, the Board affords no probative value to this assertion as it is speculative and conclusory. In this regard, the Veteran has submitted no evidence, or any medical treatise, showing that his unverified exposure to insecticide(s) is a causative factor in the development of skin cancer. He also does not assert, and the record does not show, that he developed skin cancer during service or within one year following his separation from service.

The Board acknowledges that the July 2020 VA examination did not provide a nexus opinion, but finds that no such opinion was required because the evidence does not indicate that his skin cancer may be associated with his active service other than due to his unverified herbicide and/or insecticide exposure. 38 U.S.C. § 5103A(d); *McLendon v. Nicholson*, 20 Vet. App. 79, 81 (2006). As discussed above, the Board finds there is no competent evidence that his skin cancer may be related to service. Therefore, the Board finds a VA medical opinion was not necessary at the time of the April 2021 rating decision, or at any point, to decide the claims. 38 C.F.R. § 3.159(c)(4)(i)(C).

Turning to presumption of herbicide exposure pursuant to the PACT Act, as noted above, service in Thailand was added to the list of locations where servicemen and servicewomen were presumptively exposed to herbicide agents during the Vietnam era without regard to military occupational specialty (MOS). See Honoring our PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022). However, neither the PACT Act nor the regulations establish the Veteran's diagnosed skin cancers as presumptive diseases for in-service exposure to herbicide agents.

However, in this instance, the Board finds Dr. M.S. nexus opinion probative. Dr. M.S. provided a positive nexus opinion based on a 2014 medical study showing a significantly higher rate of developing basal cell and squamous cell carcinoma in Veteran's exposed to

herbicides (over 50 percent higher). The Board finds this nexus opinion probative as the rationale is supported by medical treatise. Importantly, there is no probative evidence to the contrary. Therefore, based on the presumption of herbicide exposure provided by the PACT Act, the Board finds that entitlement to service connection for skin cancer is warranted, and on this basis, the claim is granted. See 38 U.S.C. § 5107(b); 38 C.F.R. § 3.102; *Gilbert v. Derwinski*, 1 Vet. App. 49, 58 (1990).

Entitlement to service connection for multiple myeloma, monoclonal paraproteinemia/monoclonal gammopathy, and hemolytic anemia.

The Veteran asserts entitlement to service connection for multiple myeloma, monoclonal paraproteinemia/monoclonal gammopathy and hemolytic anemia. Specifically, he asserts that the above conditions were caused by in-service herbicide and insecticide exposure. See May 2020 Claim and November 2022 Board Hearing Transcript.

The STRs are silent for any complaints, treatment or diagnosis for multiple myeloma, monoclonal paraproteinemia/monoclonal gammopathy and/or anemia.

A March 2015 private medical record shows a diagnosis for hemolytic anemia/cold agglutinin disease. See Private Medical Records Received July 2020. An April 2016 private medical record noted a current diagnosis for monoclonal paraproteinemia. See Private Medical Records Received March 2021. VA medical records show that in January 2017, the Veteran was assessed with cold agglutinin disease that likely caused his anemia and bilirubinemia. See VA Medical Records Received January 2023.

An October 2018 private medical record noted diagnoses for cold agglutinin disease with autoimmune hemolytic anemia. Additionally, an April 2019 private medical record shows a current diagnosis for monoclonal paraproteinemia. A February 2021 private medical record shows a principal diagnosis for cold agglutinin disease/hemolytic anemia with a date of diagnosis listed as winter of 2011. His condition was assessed as asymptomatic. The record also noted a diagnosis for monoclonal gammopathy of undetermined significance (MGUS) with a mild increase in monoclonal protein that was detected in April 2013. See Private Medical Records Received March 2021.

In September 2021, a history of chronic cold agglutinin disease was noted. The Veteran reported being fatigued, occasionally running out of breath and that his legs felt numb, but that he remained very active. See VA Medical Records Received December 2022.

At a November 2022 Board hearing, the representative asserted that the Veteran's anemia was evidence of symptomatic multiple myeloma, and that the rating criteria supported that assertion.

In December 2022, the Veteran submitted a November 2022 letter from Dr. M.S. who noted exposure to herbicides during service, and stated that herbicides contained many carcinogenic compounds. One such compound, benzene, caused toxicity even where exposure levels were far below acceptable occupational exposure limits. In addition, the compound TCDD was noted to be known as the most toxic of dioxin-related compounds, and that the compound stayed present in the body for long periods of time.

With regard to multiple myeloma, Dr. M.S. stated that the Veteran had been diagnosed with monoclonal gammopathy which was, in essence, the precursor of multiple myeloma. Specifically, Dr. M.S. stated that, until proven otherwise, a patient with monoclonal gammopathy was presumed to have, or was in the process of developing, multiple myeloma. Accordingly, Dr. M.S. opined that it was "at least as likely as not that [the Veteran] either has or will develop multiple myeloma." Myeloproliferative neoplasms were noted to be rare cancers characterized by an overproduction of red blood cells and platelets. Dr. M.S. stated that multiple studies had shown that with myeloproliferative neoplasm, there existed a significantly higher risk for members of the community exposed to benzenes, the major compound within Agent Orange, and that there was a clear established relationship between the two.

Additionally, Dr. M.S. stated that delayed onset of malignancy was to be anticipated, and that delayed onset did not result in negating causation. With regard to anemia, Dr. M.S. stated that the condition was universally found in patients with multiple myeloma and/or monoclonal gammopathy as both conditions caused excess of plasma cells which thereby invade

the bone marrow preventing red blood cell precursors from producing red blood cells, and that the absence of red blood cells was, by definition, anemia. Based on the above, Dr. M.S. opined that there was a very clear causal connection between herbicides, monoclonal gammopathy and anemia.

With regard to herbicides, prior to the PACT Act, VA regulations did not provide MGUS as a presumptive disability associated with such exposure. However, the PACT Act does establish MGUS as a presumptive disease for in-service exposure to herbicide agents. Additionally, the PACT Act added service in Thailand to the list of locations where servicemen and servicewomen were presumptively exposed to herbicide agents during the Vietnam era without regard to military occupational specialty (MOS). See Honoring our PACT Act of 2022, Pub. L. No. 117-168, § 403(d)(2) (2022). Therefore, as VA has conceded a medical relationship between herbicide exposure and the development of MGUS, entitlement to service connection for MGUS is warranted pursuant to the PACT Act.

With regard to multiple myeloma, pursuant to 38 C.F.R. § 4.117, DC 7712 (Multiple Myeloma), the rating criteria notes that current validated biomarkers of symptomatic multiple myeloma and asymptomatic multiple myeloma, smoldering, or MGUS are acceptable for the diagnosis of multiple myeloma as defined by the American Society of Hematology (ASH) and International Myeloma Working Group (IMWG). Therefore, in consideration of Dr. M.S.'s nexus opinion as well as regulations pertaining to multiple myeloma, the Board finds that the Veteran has a diagnosis for multiple myeloma, and entitlement on a presumptive basis is warranted. See 38 C.F.R. § 3.309(e).

Additionally, as service connection for MGUS/multiple myeloma has been granted, the Board further finds that entitlement to service connection for anemia is warranted on a secondary basis. In this regard, in the absence of any medical evidence to the contrary, the Board finds Dr. M.S.'s nexus opinions the most probative evidence of record.

With regard to entitlement to service connection on a basis other than presumptions offered by the PACT Act, the Board concludes that entitlement to service connection is not warranted. In this regard, and for reasons cited above, without the benefit of the PACT Act, exposure to herbicides is not shown. Additionally, the Board has considered the Veteran's statements that his conditions are etiologically related to exposure to insecticides. However, the Board affords no probative value to this assertion as it is speculative and conclusory and unsupported by any evidence showing actual exposure to insecticides, or any medical treatise showing a causative relationship between insecticides and the development of MGUS/multiple myeloma or anemia. He also does not assert, and the record does not show, that these conditions developed during service, or within one year following his separation from service.

The Board acknowledges that the Veteran has not been afforded a VA examination with respect to these claims, but finds no such examination was required because the evidence does not indicate that the claimed conditions may be associated with his active service other than due to his unverified herbicide and/or insecticide exposure. 38 U.S.C. § 5103A(d); *McLendon v. Nicholson*, 20 Vet. App. 79, 81 (2006). As discussed above, the Board finds no competent evidence that these conditions may be related to service. Therefore, the Board finds a VA medical opinion was not necessary at the time of the April 2021 rating decision, or at any point, to decide the claims. 38 C.F.R. § 3.159(c)(4)(i)(C).

In sum, the evidence of record is persuasively against granting service connection for MGUS/multiple myeloma and anemia on a basis other than pursuant to the PACT Act. With regard to the presumption of herbicide exposure provided by the PACT Act, the Board finds the entitlement to service connection for MGUS/multiple myeloma and anemia are warranted. See 38 U.S.C. § 5107(b); 38 C.F.R. § 3.102; *Gilbert v. Derwinski*, 1 Vet. App. 49, 58 (1990).

Entitlement to service connection for atrial fibrillation.

The Veteran asserts entitlement to service connection for atrial fibrillation on the basis of in-service herbicide and insecticide exposure. See May 2020 Claim and November 2022 Board Hearing Transcript.

The evidence of record includes STRs which are silent for any complaints, treatment or diagnosis for atrial fibrillation.

A December 2014 private medical record shows the Veteran presented with new onset atrial fibrillation. See Private Medical Records Received July 2020. A January 2015 VA medical record assessed the Veteran with "atrial fibrillation, converted with medication." See VA Medical Records Received June 2020.

In December 2022 letter, Dr. M.S. stated that the Veteran was exposed to herbicides during service. With regard to herbicides, Dr. M.S. noted it contained many compounds that were carcinogenic. One such compound, benzene, caused toxicity even where exposure levels were far below acceptable occupational exposure limits. In addition, the compound TCDD was noted to be known as the most toxic of dioxin-related compounds, and that the compound stayed present in the body for long periods of time. Short-term exposure was noted to result in the development of skin lesions, and long-term exposure was noted to be linked to the development of cancers and impairments of major body systems.

With regard to atrial fibrillation, Dr. M.S. noted that hypertension doubled the likelihood of developing the condition as compared to the population without hypertension. Specifically, Dr. M.S. noted that hypertension caused cardiac structural changes such as atrial remodeling, and further noted that hypertension affected the renin-angiotensin-aldosterone system in an adverse manner, which was an important link in the pathogenesis of developing this condition. Based on the above, Dr. M.S. stated that there was a very clear causal connection between Agent Orange and atrial fibrillation. Furthermore, in consideration of the numerous conditions the Veteran had which were attributable to Agent Orange exposure, Dr. M.S. opined that "it is much more likely than not that said conditions are in fact the direct result of his in-service exposure." In providing the nexus opinion, Dr. M.S. stated he had reviewed the entire claims file, including treatment records, the VA examination and lay statements.

After a review of the evidence of record, the Board finds that entitlement to service connection for atrial fibrillation is warranted. In this regard, the Board finds Dr. M.S.'s nexus opinion linking the Veteran's atrial fibrillation to his now service-connected hypertension the most probative evidence of record. Dr. M.S.'s opinion was based on a medical finding that patients with hypertension were twice as likely to develop atrial fibrillation. Dr. M.S. also noted that hypertension caused cardiac structural changes, including atrial remodeling, and affected the renin-angiotensin-aldosterone system in an adverse manner, an important factor in developing atrial fibrillation. The Board finds Dr. M.S. medical opinion persuasive as it is medically supported. Importantly, with regard to secondary service connection, there is no probative evidence to the contrary.

However, as noted above, the effective date for inclusion of hypertension is October 1, 2026. Therefore, the Board is to consider entitlement to service connection for atrial fibrillation on a basis other than pursuant to the PACT Act.

As noted above, without the presumptions offered by the PACT Act, exposure to herbicides has not been conceded. The Board has also considered the Veteran's statements that his atrial fibrillation is etiologically related to insecticide exposure. However, for reasons cited in the sections above, this assertion is speculative and conclusory and of little probative value. Additionally, the record does not show, nor does the Veteran assert, that his atrial fibrillation developed during service, or within one year following his separation from service.

The Board further finds that a VA examination with respect to this claim was not required as the evidence does not indicate that the condition might be associated with his active service other than due to unverified herbicide and/or insecticide exposure. 38 U.S.C. § 5103A(d); *McLendon v. Nicholson*, 20 Vet. App. 79, 81 (2006). Therefore, a VA medical opinion was not necessary at the time of the April 2021 rating decision, or at any point, to decide the claims. 38 C.F.R. § 3.159(c)(4)(i)(C).

Additionally, with regard to presumptive herbicide exposure pursuant to the PACT Act, neither the PACT Act nor the regulations establish atrial fibrillation as a presumptive disease for in-service exposure to herbicide agents. The Board has considered Dr. M.S. statement that there was a clear causal connection between herbicide exposure and atrial fibrillation, however, Dr. M.S. did not elaborate on what this connection was, and other than providing a positive nexus opinion based on secondary service connection, the only evidence cited by Dr. M.S. as supporting direct service connection was "the numerous

conditions the Veteran had which were attributable to Agent Orange exposure." However, this statement is wholly conclusory, and, therefore, speculative in nature and of little probative value.

In sum, entitlement to service connection on a secondary basis to the Veteran's hypertension, which has been granted service connection pursuant to the PACT Act, is warranted. The evidence of record is persuasively against granting service connection on a basis other than pursuant to the PACT Act. See 38 U.S.C. § 5107(b); 38 C.F.R. § 3.102; *Gilbert v. Derwinski*, 1 Vet. App. 49, 58 (1990).

Entitlement to service connection for respiratory conditions.

The Veteran seeks entitlement to service connection for respiratory conditions, including reticulonodular infiltrate, multiple lung nodules and bronchitis. Specifically, he asserts entitlement on the basis of herbicide and insecticide exposure. See May 2020 Claim and November 2022 Board Hearing Transcript.

The evidence of record includes STRs which are silent for any complaints or treatment for a respiratory condition. The evidence additionally does not show, and the Veteran does not assert, that his respiratory conditions began during service, within one year following separation from service, or are otherwise related to service on a direct basis other than due to exposure to herbicides and insecticides. Therefore, entitlement to service connection on a direct basis other than herbicide or insecticide exposure is not warranted.

An April 2013 CT scan revealed a few scattered pulmonary micronodules in the right lung at least partially reflective of old granulomatous residuals. A March 2015 record noted a diagnosis for asymptomatic pulmonary micronodules. He underwent another CT scan in November 2015, which revealed old granulomatous residuals with development of bibasilar mixed reticular nodules and ground glass opacities which were likely inflammatory/infectious in etiology. A March 2016 medical record shows a past medical history for multiple lung nodules and a December 2015 imaging study revealed the presence of reticulonodular infiltrate. In October 2018, he was treated with antibiotics and a steroid injection for acute bronchitis. See Private Medical Records Received July 2020.

A VA examination obtained in October 2020, notes the Veteran had not been diagnosed with a respiratory condition. No nexus opinion was provided.

During his November 2022 Board hearing, the Veteran testified that his bronchitis reoccurred approximately every month resulting in symptoms of coughing and restricted breathing. He also testified that he used an inhaler to treat multiple lung nodules causing symptoms of shortness of breath and trouble breathing.

After a review of the evidence of record, the Board finds that entitlement to service connection for reticulonodular infiltrate, multiple lung nodules and bronchitis is not warranted.

Initially, for reasons cited above, exposure to herbicides other than pursuant to the PACT Act is not conceded. With regard to conceded herbicide exposure pursuant to the PACT Act, his reticulonodular infiltrate, multiple lung nodules and bronchitis are not presumptive diseases based on herbicide exposure.

Notwithstanding the presumption, service connection for a disability claimed as due to exposure to herbicides may be established by showing that a disorder resulting in disability or death was in fact causally linked to such exposure. See *Brock v. Brown*, 10 Vet. App. 155, 162-64 (1997); *Combee v. Brown*, 34 F. 3d 1039, 1044 (Fed. Cir. 1994), citing 38 U.S.C. § 1113(b) and 1116 and 38 C.F.R. § 3.303. However, for reasons cited above, the Board affords no probative value to the Veteran's speculative and conclusory etiological statements as to developing medical conditions, including respiratory conditions, due to asserted exposure to insecticides. The record further does not show, and the Veteran does not assert, that he developed his respiratory conditions during service, within one year following his separation from service, or are otherwise related to service on a direct basis other than due to exposure to herbicides and insecticides.

In the absence of any competent evidence showing that his respiratory conditions, to include reticulonodular infiltrate, multiple lung nodules and bronchitis, are etiologically related

to his active duty service, entitlement to service connection must be denied. See 38 U.S.C. § 5107(b); 38 C.F.R. § 3.102; Gilbert v. Derwinski, 1 Vet. App. 49, 58 (1990).

REASONS FOR REMAND

Entitlement to service connection for skin condition is remanded.

The evidence of record includes the Veteran's STRs showing treatment for a boil on his arm in January 1967, prior to his deployment to Thailand. He was diagnosed with tinea corporis. Private medical records received in June 2020 show diagnoses for several skin condition. See October 2019 Private Dermatology Record. The Veteran also underwent a VA examination in July 2020 noting a diagnosis for psoriasis. No etiological opinion was provided.

In consideration that the Veteran was treated for a skin condition during service, and diagnoses provided by private medical records and the VA skin examination, the Board finds that a duty to assist existed at the time of the April 2021 rating decision to obtain a nexus opinion. Therefore, in order to cure the duty to assist error, the Board finds that a VA skin examination should be obtained.

The matter is REMANDED for the following action:

1. Schedule the Veteran for an examination by an appropriate examiner to determine the nature and etiology of any diagnosed skin condition other than skin cancer. The examiner should provide the following opinions:

Is it at least as likely as not that the Veteran has a diagnosed skin condition other than skin cancer that is etiologically related to his period of service?

The examiner is asked to consider the January 1967 STR showing treatment for a boil diagnosed as tinea corporis.

The examiner should review pertinent documents in the Veteran's claims file. All indicated studies should be completed. Reasons should be provided for any opinion rendered. If the examiner is unable to provide an opinion without resort to speculation, an explanation as to why this is so should be provided and any additional evidence that would be necessary before an opinion could be rendered should be identified.

S. HENEKS

Veterans Law Judge

Board of Veterans' Appeals

Attorney for the Board C. Lamb, Counsel

The Board's decision in this case is binding only with respect to the instant matter decided. This decision is not precedential and does not establish VA policies or interpretations of general applicability. 38 C.F.R. § 20.1303.