

ASBESTOS FIBERS FROM KENTUCKY WORKPLACE TO THE HOME:



IS ANY AMOUNT OF
EXPOSURE SAFE?

A WHITE PAPER PRESENTED BY



MESOTHELIOMA, a rare and incurable form of cancer, can be caused by low levels of asbestos exposure – whether it occurred at work or secondhand while laundering work clothes or in the household. The disease can take decades from the time of exposure to develop in the lining of the lungs, abdomen or heart.

“*It is a **myth** that only men who worked in certain trades **are at risk**.*”

The number of deaths from mesothelioma continues to hold steady and even increase (from 2,479 in 1999 to 2,597 in 2015).¹ The median age of diagnosis is the mid-70s.² Yet, individuals as young as their mid-40s continue to be diagnosed.³

Of the approximately 3,000 cases diagnosed across the country each year, a significant number are in Kentucky. From 1999 through 2015, nearly 500 people died from mesothelioma in the Commonwealth. In nearly each case, asbestos exposure occurred at some point. Tracing when and where becomes the challenge because mesothelioma may develop 20 to 70 years after an individual was exposed to asbestos.

In this white paper, we provide some background on diagnosis and mesothelioma treatment options that can extend and improve patients' remaining time. Then we address:

- > **Why** asbestos was widely used
- > **How** to identify where exposure occurred
- > **When** to seek legal advice

GETTING A DIAGNOSIS

Because mesothelioma is a rare cancer, many physicians see it only a couple times over their careers. Indeed, given its association with work in certain blue-collar industries, a doctor may not immediately identify mesothelioma in an individual who worked as an accountant, a teacher or an insurance agent.

Physical exams may provide the first sign of mesothelioma, which develops in certain areas of the body. This includes:

- › ***Pleural mesothelioma***, which affects the lining of the lungs or the chest wall. Though a rare disease, it is the most common form of mesothelioma.
- › ***Peritoneal mesothelioma***, which affects the abdomen and is seen less frequently than pleural mesothelioma
- › ***Pericardial mesothelioma***, which is rare and develops in the lining of the heart
- › ***Testicular mesothelioma***, which affects the membrane lining of the testicles and is exceedingly rare⁴

Unexplained and persistent fluid buildup is common in individuals with mesothelioma. Often, individuals with mesothelioma are initially diagnosed with pneumonia. Imaging tests such as X-rays and diagnostic scans (CT, PET or MRI) allow doctors to see the location of fluid and any indication of tumors. While there is ongoing research to develop a blood test, none yet exists.

The only way to obtain a definite diagnosis is through a biopsy and testing of fluid.

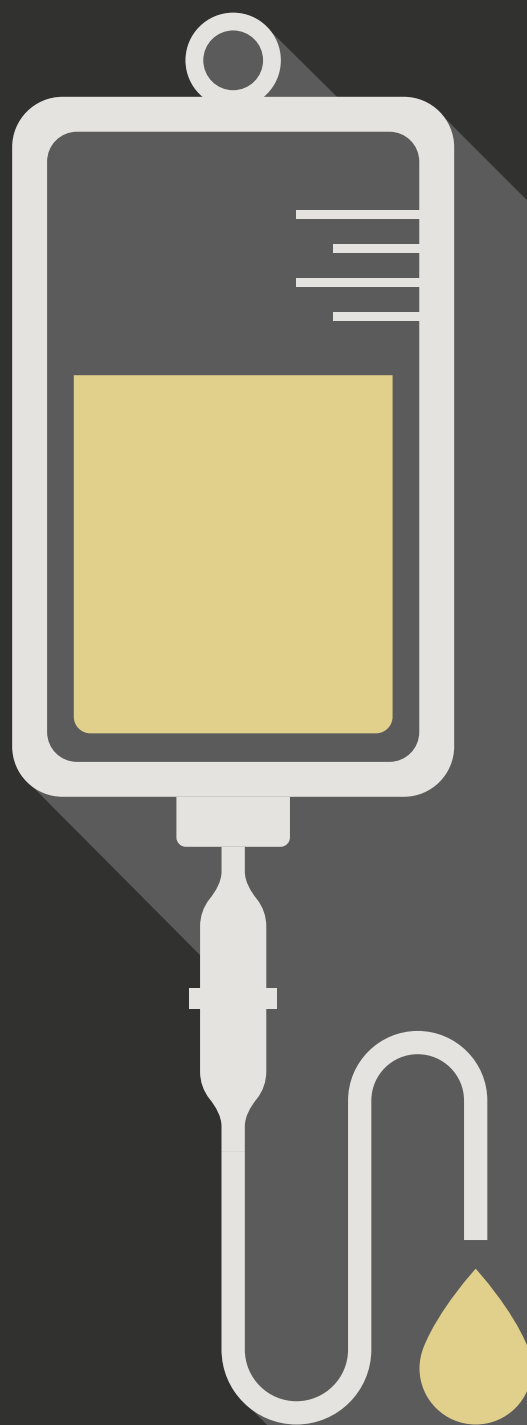
Diagnosis is complicated because even under a microscope, pleural mesothelioma can resemble lung cancer and peritoneal mesothelioma often is confused with ovarian cancer. For this reason, it is often a good idea to seek a second opinion to confirm whether or not you have mesothelioma, especially when you have a history of asbestos exposure. The James Graham Brown Cancer Center at the University of Louisville is a good option in Kentucky.

TREATMENT OPTIONS AND KEYTRUDA TRIALS

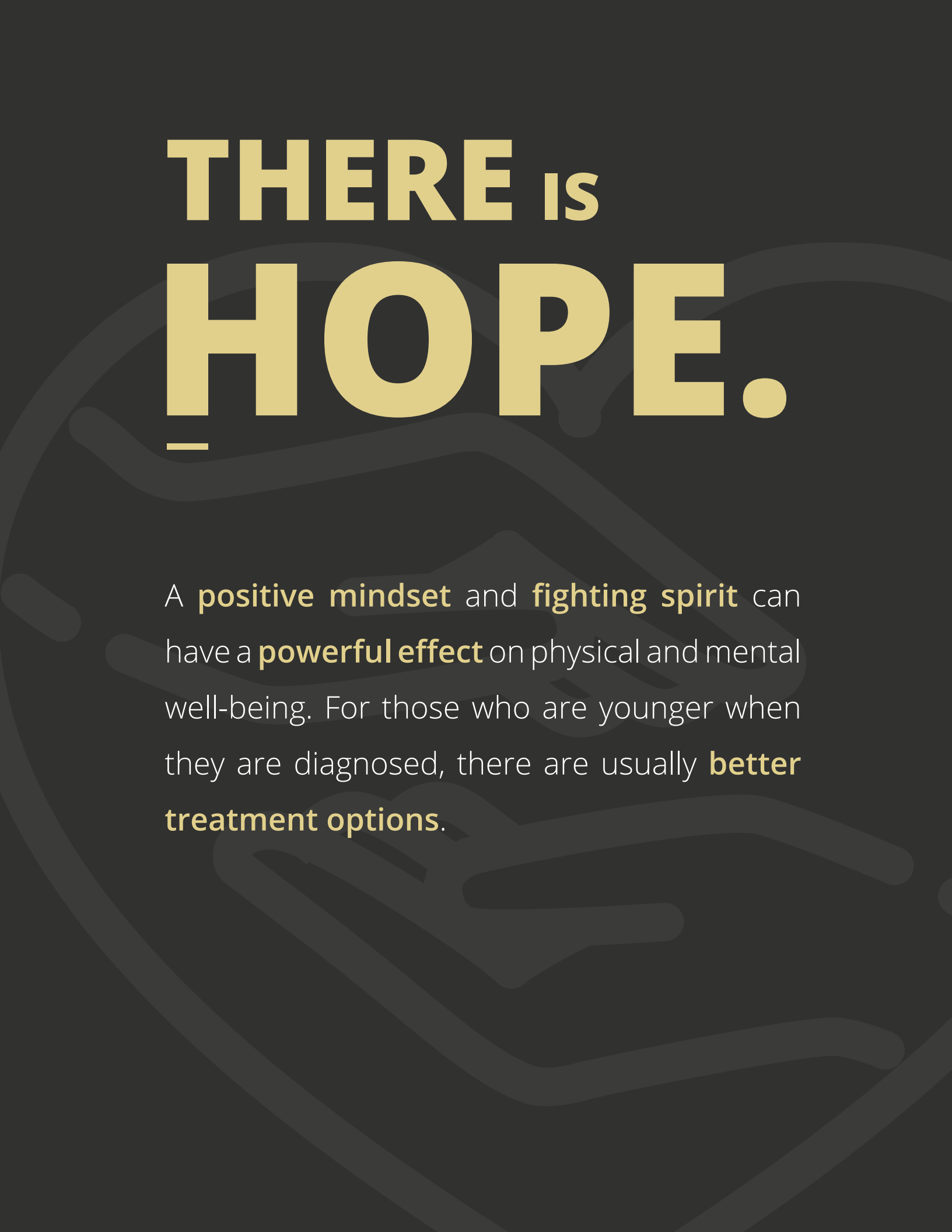
Surgical procedures combined with chemotherapy may be treatment options depending on age and health. A technique called hot chemotherapy allows a surgeon to deliver chemotherapy at the time of surgery to remove a tumor.

Radiation therapy combined with a drug regimen can help shrink tumors without some of the side effects of chemotherapy. It may also reduce physical pain while managing tumor growth.

Research continues on the effectiveness of certain immunotherapy drugs. One of the most promising advances relates to Pembrolizumab (generally referred to as Keytruda). A 2017 study completed by the Perelman School of Medicine at the University of Pennsylvania showed that the drug had a positive impact.⁵



THERE IS HOPE.



A **positive mindset** and **fighting spirit** can have a **powerful effect** on physical and mental well-being. For those who are younger when they are diagnosed, there are usually **better treatment options**.

ASBESTOS: A MINERAL WITH MIRACULOUS PROPERTIES

A look at its history explains why asbestos was so widely used. Even though there is no U.S. import ban on asbestos, its use has declined because of the documented health concerns and regulatory restrictions.⁶

Asbestos, which comes from the Greek word for “inextinguishable,” refers to six naturally occurring minerals in two main categories:

- > **Serpentine**, including **chrysotile/white asbestos**, has long curly fibers that can be woven.



- > **Amphibole** – tremolite, for example – is characterized by straight, needle-like fibers that are brittle.



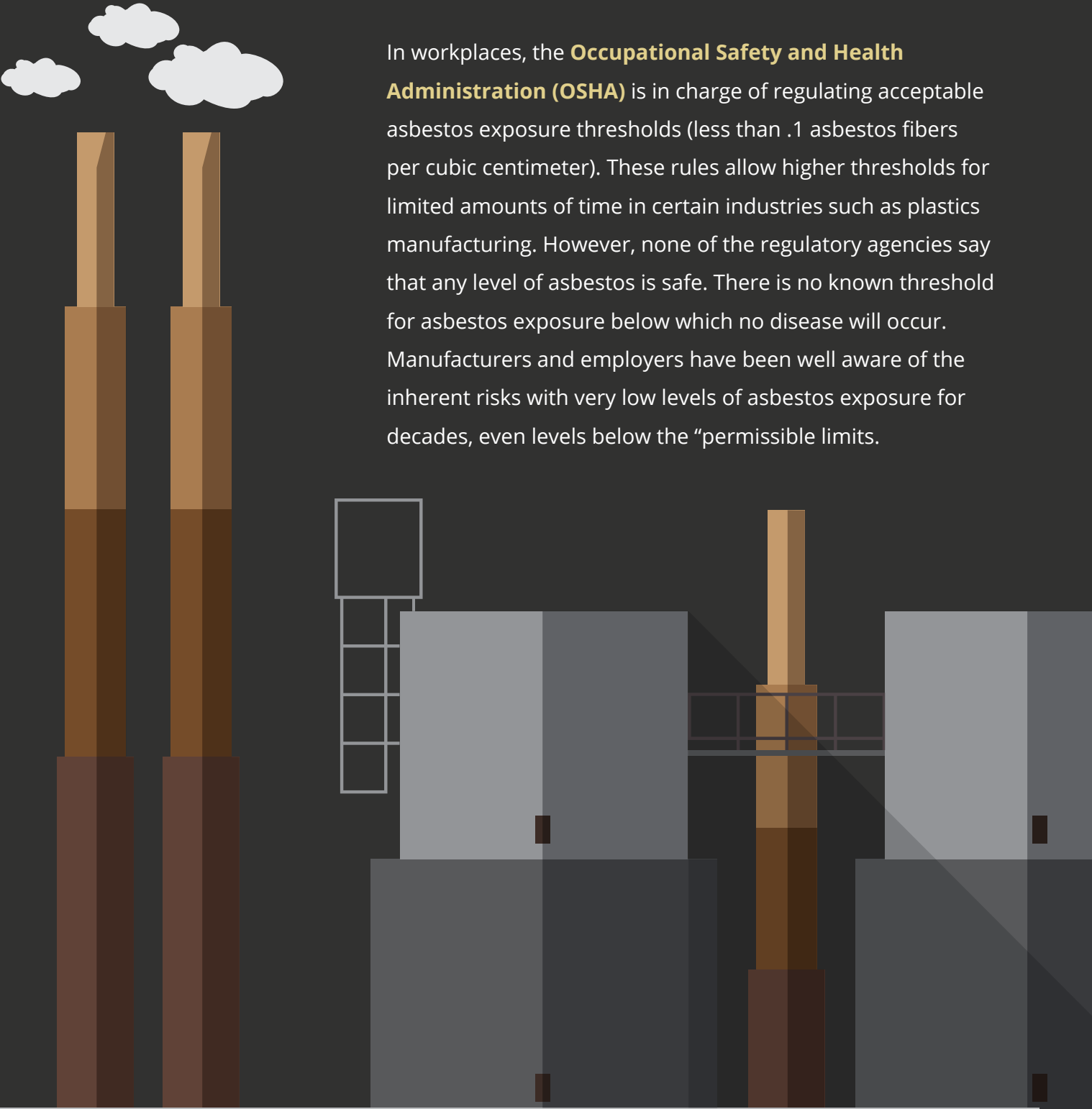
Naturally resistant to heat and fire, asbestos fibers do not conduct electricity. And at the turn of the century when fire in large cities was still a serious problem, these properties were viewed as miraculous. More than 3,000 products contained asbestos, including:

- > **Automotive products** such as brake pads, linings and clutch plates
- > **Building materials**, including thermal insulation, pipe insulation, pipe elbow insulation and insulating blankets
- > **Heating and cooling system products**, including boiler insulation, duct work insulation, furnace insulation and gaskets, and fire protection and industrial products from spray-on fireproofing to laboratory hoods⁷

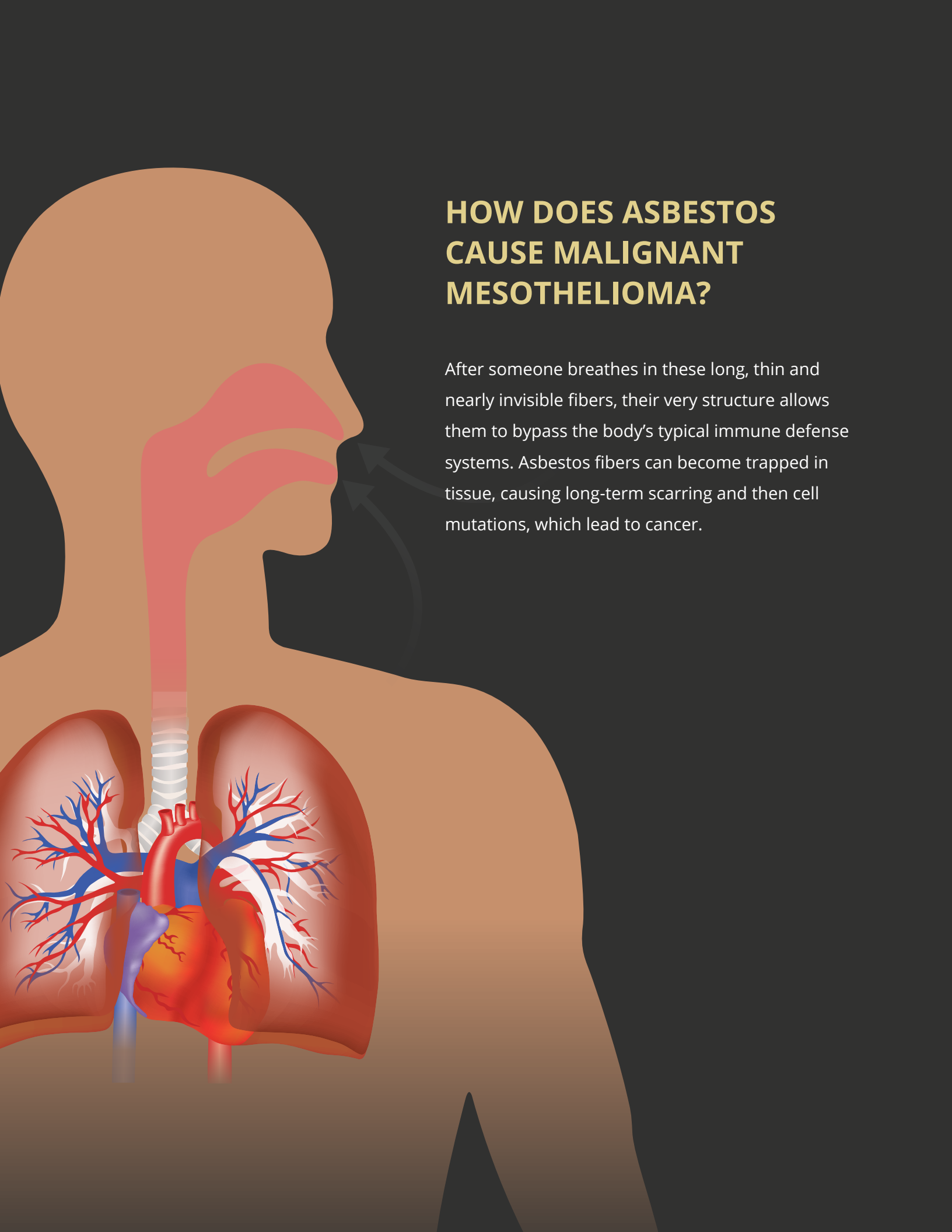
Although manufacturers and distributors of asbestos products as well as companies, which utilized asbestos in their plants, were well aware of the hazards of asbestos by the 1920s, many companies did not stop using it until the 1960s and 70s. Many companies continued to manufacture and use asbestos products into the 1990s and early 2000s. After several limited bans, the U.S. Environmental Protection Agency (EPA) issued a broad rule in 1989 under Section 6 of the Toxic Substances Control Act (TSCA) banning most asbestos-containing products. In 1991, a legal challenge was successful and the rule was vacated.⁸

In homes built before the 1970s, there are likely products that contain asbestos. As long as they are undisturbed, the dangers are low. Demolition for a restoration or renovation may release asbestos fibers when building components with asbestos are broken or crushed.



An illustration of an industrial facility. On the left, two tall, brown smokestacks rise from a base, with three white clouds floating above them. To the right, there are several grey industrial buildings of varying heights. A single brown smokestack is positioned between two of these buildings. A white ladder-like structure is visible on the left side of the buildings. The foreground consists of a solid brown horizontal band. Within this band, there are four rows of small, light-grey rectangular blocks. The first and third rows from the top have lightning bolt symbols in the second and eighth positions. The second and fourth rows have lightning bolt symbols in the third and ninth positions. A single white vertical bar is located at the bottom center of the foreground band.

In workplaces, the **Occupational Safety and Health Administration (OSHA)** is in charge of regulating acceptable asbestos exposure thresholds (less than .1 asbestos fibers per cubic centimeter). These rules allow higher thresholds for limited amounts of time in certain industries such as plastics manufacturing. However, none of the regulatory agencies say that any level of asbestos is safe. There is no known threshold for asbestos exposure below which no disease will occur. Manufacturers and employers have been well aware of the inherent risks with very low levels of asbestos exposure for decades, even levels below the “permissible limits.”

An anatomical illustration of the human respiratory system. It shows a profile of a human head and torso. The trachea and bronchial tree are highlighted in red and white, contrasting with the orange-toned background of the rest of the body. Two grey arrows point from the text block towards the mouth and throat area, indicating the entry point of inhaled fibers.

HOW DOES ASBESTOS CAUSE MALIGNANT MESOTHELIOMA?

After someone breathes in these long, thin and nearly invisible fibers, their very structure allows them to bypass the body's typical immune defense systems. Asbestos fibers can become trapped in tissue, causing long-term scarring and then cell mutations, which lead to cancer.

INDUSTRIAL OCCUPATIONS

Since the late 1970s, the percentage of workers exposed to higher than recommended levels of aerosolized (or airborne) asbestos has decreased to less than 10 percent. Before that time (from the 1940s to the late 1970s), an *estimated 27 million workers* breathed in asbestos-laden dust across the country.⁹

Kentucky workers and their families have been exposed to asbestos from plants, factories, industrial facilities and numerous buildings throughout Kentucky. Historically, asbestos was used to manufacture numerous products, including:

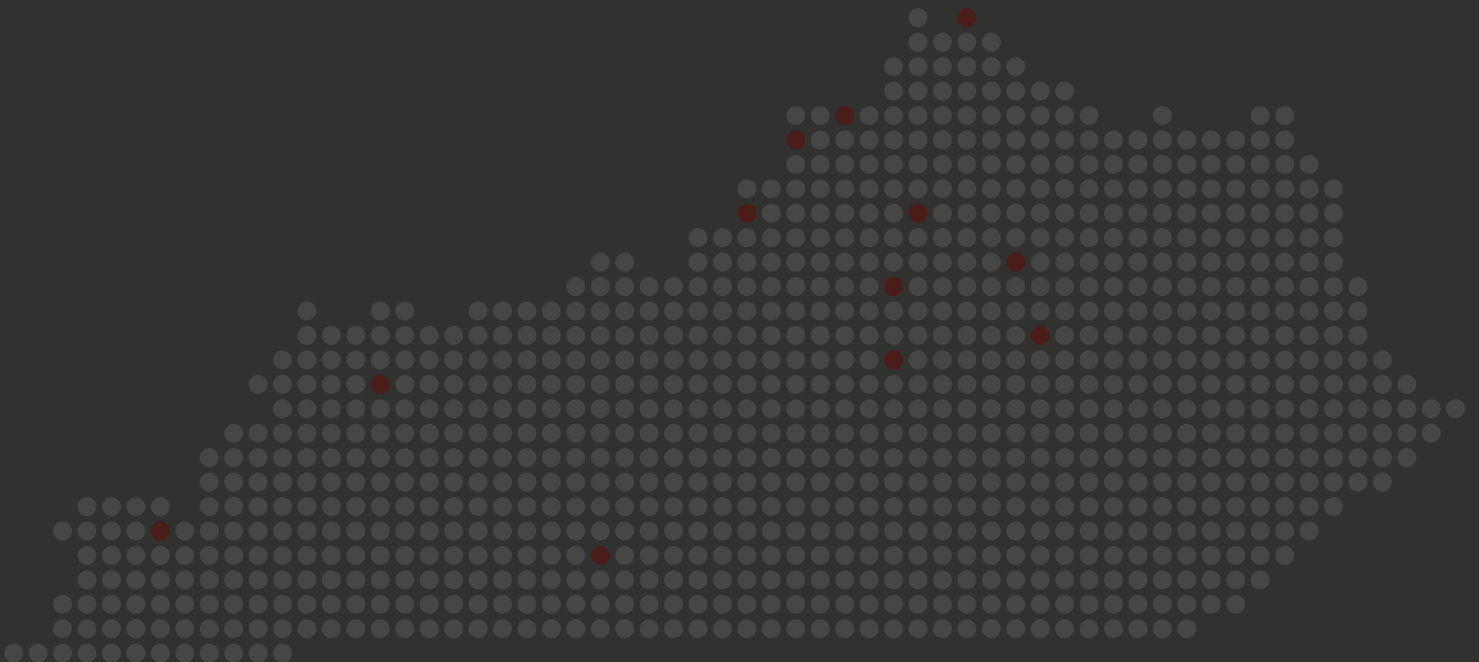
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- A background graphic consisting of a large number of small, dark grey human silhouettes arranged in a dense, slightly irregular pattern across the page, suggesting a crowd or population.
- > Insulation
 - > Gaskets
 - > Cigarette filters
 - > Cigarettes
 - > Baby Powder
 - > Cosmetic talcum powder
 - > Plastics
 - > Brakes
 - > Clutches
 - > Phenolic Molding Compounds
 - > Industrial Talc
 - > Floor Tiles

Asbestos products were installed on numerous products, including:

- > Pipes
- > Turbines
- > Boilers
- > Furnaces
- > Precipitators
- > Vessels
- > Automobiles

A sample of employers around the state includes:

- > **Bedford:** Louisville Gas & Electric Trimble County Generating Station
- > **Bowling Green:** Cutler Hammer/Eaton
- > **Carrollton:** Kentucky Utilities Ghent Powerhouse
- > **Centertown:** Big Rivers D.B. Wilson Station
- > **Covington:** Plastic Moldings Corp. (Cincinnati, Ohio), WCK Corp.
- > **Harrodsburg:** Kentucky Utilities E.W. Brown Generating Station
- > **Hawesville:** Willamette Paper Mill, Big Rivers Electric Coleman Station
- > **Lawrenceburg:** Florida Tile¹⁰
- > **Lexington:** Square D, IBM
- > **Louisville:** General Electric Company Appliance Park, Louisville Gas & Electric (Cane Run, Mill Creek Powerhouses), Lorillard Tobacco Co., American Standard, Ford Motor Co. (Louisville Assembly Plant and Kentucky Truck Plant), CSX Railroad (L&N Railroad), International Harvester
- > **Paducah:** Illinois Central Railroad Co., Paducah & Louisville Railroad Co. and Triangle Insulation Co.
- > **Robards:** Big Rivers Sebree Station (Robert Reid and Robert Green)



Traditional Kentucky industries and occupations where exposure was likely to occur include:

- > Auto mechanics
- > Construction trades such as painters, bricklayers, carpenters, drywallers, electricians, insulators, roofers, floor covering installers, plumbers and HVAC workers
- > Power plant workers
- > Plastic molding workers
- > Tile manufacturing
- > U.S. Navy shipyards
- > Maintenance workers

Simply because someone worked for one of these companies or in one of these industries does not mean they will develop mesothelioma. It does significantly increase their risk, especially as they age.



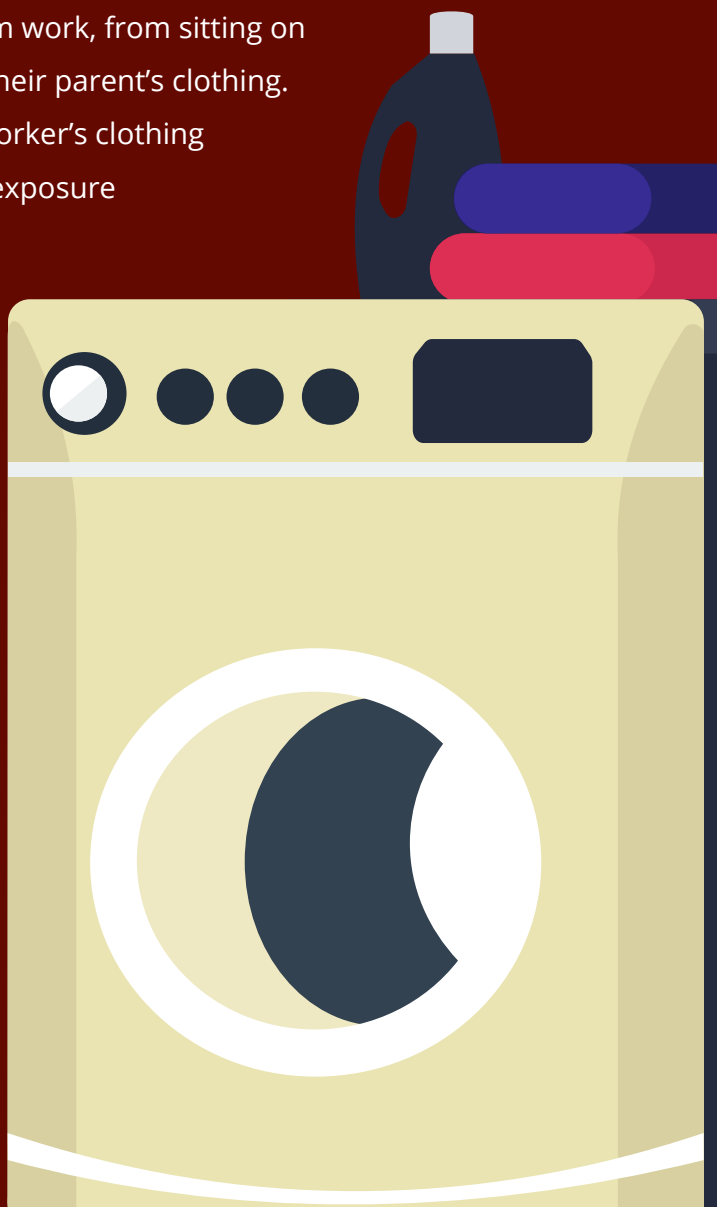
TAKE HOME EXPOSURE TO ASBESTOS FREQUENTLY OCCURRED PUTTING SPOUSES AND CHILDREN OF WORKERS AT RISK OF SUFFERING FROM MESOTHELIOMA

Frequently, the family member who worked with asbestos each day never develops the disease, but a spouse or child does.

Spouses and children of exposed workers account for another category of mesothelioma cases. Studies have linked laundering uniforms and other work clothing to the disease.

Many people who have been diagnosed with mesothelioma never worked with or used any asbestos products. However, they can trace their asbestos exposure to a parent's dusty clothing from hugging mom or dad when they came from work, from sitting on furniture where their parents sat, and from laundering their parent's clothing. Riding in a vehicle contaminated with asbestos from a worker's clothing commonly occurred, increasing spouses' and children's exposure to asbestos.

Satterley and Kelley has brought numerous lawsuits in Kentucky on behalf of people exposed to asbestos brought home by their spouses and parents. While proving exposure can be challenging, employers and manufacturers can be held accountable for causing innocent people to contract mesothelioma simply from breathing dust from their parent's or spouse's asbestos contaminated clothing brought home from work.



HOUSEHOLD EXPOSURE: IDENTIFYING ASBESTOS IN THE HOME

Cosmetics and talcum powder are other products that can bring asbestos into a home. For example, scientists have concluded that Johnson & Johnson's Baby Powder and Shower to Shower contained asbestos for decades. Many other talcum powder products have been similarly shown to have contained asbestos. Unsuspecting consumers used these products for decades not realizing that they were exposing themselves and their family members to asbestos.



ANSWERS: SOLVING THE MYSTERY OF WHERE AND WHEN EXPOSURE OCCURRED

One of the main challenges of a lawsuit to recover for mesothelioma from asbestos exposure is figuring out where the exposure happened and who was responsible.

Occupational histories, review of Social Security records and interviews with former co-workers and loved ones can provide initial clues. Then additional research into military ship records or company supplier information may narrow in on responsible parties.

It is relatively common to identify 10 to 20 potentially liable parties, which makes this litigation complex. Proving causation and apportioning responsibility take time and attention to detail. Navigating through complex legal arguments and defenses takes experience and knowledge of the issues before they are raised by the defendant companies.

Negotiation is usually effective at reaching settlement and most cases do not go to trial. Because fewer cases proceed to trial, however, there are also fewer attorneys with sufficient knowledge, experience and trial skills to challenge the sophisticated, wealthy companies responsible for causing people to suffer from mesothelioma. Defense attorneys and insurance companies tasked with settling asbestos claims know which plaintiffs attorneys can beat them and which cannot when making offers.



GETTING LEGAL COUNSEL IN KENTUCKY

Large national law firms spend significant sums advertising on television, the internet and social media. If you live in Kentucky or were exposed while living there, you will likely be referred to a local firm, which can take several months.

After a diagnosis of mesothelioma, it is crucial to move quickly. A delay of several months could limit opportunities for a loved one to tell his or her story to the jury and to gain peace of mind that justice was obtained for causing their disease.

Time to bring a lawsuit is limited. In Kentucky, there is ***a one-year statute of limitations*** for personal injury cases. Often, it takes significant time to investigate the case and identify the responsible parties.

By going directly to *the* mesothelioma firm in Kentucky, you can avoid delay. At Satterley & Kelley, PLLC, our attorneys know the products and locations across the state that posed exposure risks. We work diligently to uncover where asbestos exposure occurred and then take immediate action to hold manufacturers and employers accountable for causing people to suffer this preventable disease.



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