

Testimony of  
**Mr. Brian Harvey**

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My name is Brian Harvey and I should be dead today.

On September 2, 1999, I was diagnosed with malignant mesothelioma caused by asbestos. In the United States, most people diagnosed with mesothelioma that don't receive treatment die within eight months. Those who do receive treatment increase their life expectancy to an average of 18 months. Overall, a person's chance of surviving five years is one in 20. I am now 42 months from my diagnosis and feel fortunate to be talking to you today about the asbestos crisis in America. While mesothelioma can never be cured, I was lucky to have been diagnosed early. Because of my early diagnosis, I was eligible for an experimental treatment program at the University of Washington. I first underwent five months of chemotherapy followed by surgery. The surgeons removed my left lung, the surrounding pleura, a rib, the left half of my diaphragm and half of my pericardial sack. Following the surgery, I underwent a month of radiation treatment.

Every six months, I return to the University of Washington for a CAT scan and blood test. I like to describe it as a game of Russian roulette. My doctors did their best to remove all the bullets from the cylinder, but neither the doctors nor I know whether there are any cancer cells remaining. The technicians spin the cylinder and pull the trigger. So far my clinical condition shows no evidence of disease. But every day I rejoice in the fact that I am alive, that I can still hear the birds in the park and children playing in the yard across the street and that I have at least one more day to spend with my family.

After being diagnosed with mesothelioma, I hired a lawyer and filed a lawsuit against several companies who manufactured some of the asbestos products that I worked around. Neither my wife nor I had ever filed a lawsuit before. However, when I learned that the asbestos industry had been aware of the dangers of their products by the 1930s, I felt justified in seeking compensation for my family and myself. After six months of litigation, my lawyers were able to obtain several significant settlements in my case.

We are not wealthy. My wife still works so that we can remain eligible for health insurance, since I am no longer employed. However, our settlement enabled us to relocate to Seattle where we could be closer to my doctors, to pay the medical bills that were not covered by insurance, to make up for my lost income and to put money away so that my wife and family are covered when I die.

Over the past several years I have worked with the University of Washington and the Mesothelioma Applied Research Foundation to counsel other mesothelioma victims. I discuss treatment options and try to prepare victims for the devastating effects of the disease. Many victims talk to me about financial disruption that follows a mesothelioma diagnosis. When I suggest that they pursue legal remedies, I am saddened to hear that all the companies from whom I received compensation have filed for bankruptcy in the past two years.

I have read articles in magazines and newspapers that the vast majority of asbestos claims filed in American today are brought by people who are not currently sick as a result of asbestos. It makes me angry that these cases are forcing defendants into bankruptcy and diverting funds from people who are sick and dying from asbestos disease. I am angry that the true victims of

asbestos are not getting the compensation they need and deserve.

Congress must act comprehensively to address the asbestos crisis in America at four different levels: Prevention, Detection, Treatment and Compensation.

Prevention. Congress must act to ban asbestos in America. It is unbelievable that asbestos is still being used in this country when its dangers are so well known. My Senator, Patty Murray, has proposed legislation to ban the use of asbestos in America. I ask the members of this Committee to join Senator Murray and stop people from being exposed to this deadly material. The best way to solve the asbestos litigation crisis is to prevent people from getting sick in the first place.

Detection. I am alive today because I was diagnosed early enough to be eligible for radical experimental treatment. Congress needs to establish a medical monitoring program to ensure that the 40 million Americans who have been exposed to asbestos receive regular examinations by a qualified physician. Most Americans were exposed to asbestos while serving in the military or, like myself, as a union member working in the trades. The Veterans Administration and AFL-CIO could provide the organization to administer an asbestos monitoring program for millions of exposed individuals.

Treatment. I was the beneficiary of an experimental treatment program at the University of Washington. However, many individuals diagnosed with mesothelioma are simply told by their physicians to go home, get their affairs in order and prepare to die. Congress needs to appropriate funds for the research and treatment of asbestos related disease. With 40 million exposed Americans, asbestos victims need real treatment options when they become ill.

Compensation. Although the hazards of asbestos were well documented from the 1930s, asbestos was widely used by manufacturers through the 1970s -- and is still used by some today. People whose lives are disrupted by asbestos disease should be able to seek compensation from the responsible companies for their injuries. Individuals, who are not suffering a real disease caused by asbestos, should be eligible for medical monitoring, but not monetary compensation. The American Bar Association has developed criteria to distinguish individuals suffering from a real asbestos disease from those who are not impaired. Congress should act now and enact the ABA standards into law.

Asbestos has had a devastating impact on the lives of countless Americans. I ask that Congress adopt this comprehensive approach to the asbestos crisis for the benefit of all Americans.