

686B.2 Definitions.

As used in [this chapter](#), unless the context otherwise requires:

1. “AMA guides” means the American medical association’s guides to the evaluation of permanent impairment in effect at the time of the performance of any examination or test on the exposed person required under [this chapter](#).

2. “Asbestos” means the same as defined in [section 686A.2](#).

3. “Asbestos action” means the same as defined in [section 686A.2](#).

4. “Asbestosis” means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos fibers.

5. “Board-certified in internal medicine” means certified by the American board of internal medicine or the American osteopathic board of internal medicine at the time of the performance of an examination and rendition of a report required by [this chapter](#).

6. “Board-certified in occupational medicine” means certified in the specialty of occupational medicine by the American board of preventive medicine or the specialty of occupational/environmental medicine by the American osteopathic board of preventive medicine at the time of the performance of an examination and rendition of a report required by [this chapter](#).

7. “Board-certified in pathology” means holding primary certification in anatomic pathology or clinical pathology from the American board of pathology or the American osteopathic board of pathology at the time of the performance of an examination and rendition of a report required by [this chapter](#), and practicing principally in the field of pathology including regular evaluation of pathology materials obtained from surgical or postmortem specimens.

8. “Board-certified in pulmonary medicine” means certified in the specialty of pulmonary medicine by the American board of internal medicine or the American osteopathic board of internal medicine at the time of the performance of an examination and rendition of a report required by [this chapter](#).

9. “Certified B-reader” means an individual who has qualified as a national institute for occupational safety and health final or B-reader of X rays under [42 C.F.R. §37.51\(b\)](#), whose certification was current at the time of any readings required under [this chapter](#), and whose B-reads comply with the national institute for occupational safety and health B-reader’s code of ethics, issues in classification of chest radiographs, and classification of chest radiographs in contested proceedings.

10. “Exposed person” means a person whose exposure to asbestos or silica or to asbestos-containing products or silica-containing products is the basis for an asbestos action or silica action.

11. “FEV1” means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during the performance of simple spirometric tests.

12. “FEV1/FVC” means the ratio between the actual values for FEV1 over FVC.

13. “FVC” means forced vital capacity, which is the maximal volume of air expired with maximum effort from a position of full inspiration.

14. “ILO system” and “ILO scale” mean the radiological ratings and system for the classification of chest X rays of the international labour office provided in guidelines for the use of ILO international classification of radiographs of pneumoconioses in effect on the day any X rays of the exposed person were reviewed by a certified B-reader.

15. “Nonmalignant condition” means any condition that can be caused by asbestos or silica other than a diagnosed cancer.

16. “Official statements of the American thoracic society” means lung function testing standards set forth in statements from the American thoracic society, including standardizations of spirometry, standardizations of lung volume testing, standardizations of diffusion capacity testing or single-breath determination of carbon monoxide uptake in the lung, and interpretive strategies for lung function tests, which are in effect on the day of the pulmonary function testing of the exposed person.

17. “Pathological evidence of asbestosis” means a statement by a physician who is board-certified in pathology that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or

parenchymal scarring in the presence of characteristic asbestos bodies graded 1(B) or higher under the criteria published in asbestos-associated diseases, 106 *Archive of Pathology and Laboratory Medicine* 11, appendix 3 (October 8, 1982), or grade one or higher in pathology of asbestosis, 134 *Archive of Pathology and Laboratory Medicine* 462-80 (March 2010) (tables 2 and 3), as amended at the time of the exam, and there is no other more likely explanation for the presence of the fibrosis.

18. “*Pathological evidence of silicosis*” means a statement by a physician who is board-certified in pathology that more than one representative section of lung tissue uninvolved with any other disease process demonstrates complicated silicosis with characteristic confluent silicotic nodules or lesions equal to or greater than one centimeter and birefringent crystals or other demonstration of crystal structures consistent with silica, well-organized concentric whorls of collagen surrounded by inflammatory cells, in the lung parenchyma and no other more likely explanation for the presence of the fibrosis exists, or acute silicosis with characteristic pulmonary edema, interstitial inflammation, and the accumulation within the alveoli of proteinaceous fluid rich in surfactant.

19. “*Plaintiff*” means the person bringing an asbestos action or silica action, including a personal representative if the asbestos action or silica action is brought by an estate, or a conservator or next friend if the asbestos action or silica action is brought on behalf of a minor or legally incapacitated individual.

20. “*Predicted lower limit of normal*” means the test value that is the calculated standard convention lying at the fifth percentile, below the upper ninety-five percent of the reference population, based on age, height, and gender, according to the recommendations by the American thoracic society and as referenced in the applicable AMA guides, primarily national health and nutrition examination survey predicted values, or as amended.

21. “*Pulmonary function test*” means spirometry, lung volume testing, and diffusion capacity testing, including appropriate measurements, quality control data, and graphs, performed in accordance with the methods of calibration and techniques provided in the applicable AMA guides and all standards provided in the official statements of the American thoracic society in effect on the day pulmonary function testing of the exposed person was conducted.

22. “*Qualified physician*” means a physician who is board-certified in internal medicine, board-certified in pathology, board-certified in pulmonary medicine, or board-certified in occupational medicine, as may be appropriate to the actual diagnostic specialty in question, and for whom all of the following are true:

a. The physician conducted a physical examination of the exposed person and has taken a detailed occupational, exposure, medical, smoking, and social history from the exposed person, or if the exposed person is deceased, has reviewed the pathology material and has taken a detailed history from the person most knowledgeable about the information forming the basis of the asbestos action or silica action.

b. The physician treated or is treating the exposed person, and has or had a doctor-patient relationship with the exposed person at the time of the physical examination, or in the case of a physician who is board-certified in pathology, examined tissue samples or pathological slides of the exposed person at the request of the treating physician.

c. The physician spends no more than twenty-five percent of the physician’s professional practice time providing consulting or expert services in actual or potential civil actions, and whose medical group, professional corporation, clinic, or other affiliated group earns not more than twenty-five percent of its revenue providing such services.

d. The physician was licensed to practice on the date any examination or pulmonary function testing was conducted, and actively practices or practiced in the state where the exposed person resides or resided at the time of the examination or pulmonary function testing, or the state where the asbestos action or silica action was filed.

e. The physician received or is receiving payment for the treatment of the exposed person from the exposed person, a member of the exposed person’s family, or the exposed person’s health care plan and not from the exposed person’s attorney.

f. The physician prepared or directly supervised the preparation and final review of any medical report under [this chapter](#).

g. The physician has not relied on any examinations, tests, radiographs, reports, or opinions of any physician, clinic, laboratory, or testing company that performed an examination, test, radiograph, or screening of the exposed person in violation of any law, regulation, licensing requirement, or medical code of practice of the state in which the examination, test, or screening was conducted, or that was conducted without establishing a physician-patient relationship with the exposed person or medical personnel involved in the examination, test, or screening process, or that required the exposed person to agree to retain the service of an attorney.

23. “*Radiological evidence of asbestosis*” means a quality 1 chest X ray under the ILO system, or a quality 2 chest X ray in a death case when no pathology or quality 1 chest X ray is available, showing bilateral small, irregular opacities (s, t, or u) occurring primarily in the lower lung zones graded by a certified B-reader as at least 1/1 on the ILO scale.

24. “*Radiological evidence of diffuse bilateral pleural thickening*” means a quality 1 chest X ray under the ILO system, or a quality 2 chest X ray in a death case when no pathology or quality 1 chest X ray is available, showing diffuse bilateral pleural thickening of at least b2 on the ILO scale and blunting of at least one costophrenic angle as classified by a certified B-reader.

25. “*Radiological evidence of silicosis*” means a quality 1 chest X ray under the ILO system, or a quality 2 chest X ray in a death case when no pathology or quality 1 chest X ray is available, showing bilateral predominantly nodular or rounded opacities (p, q, or r) occurring primarily in the upper lung fields graded by a certified B-reader as at least 1/1 on the ILO scale or A, B, or C sized opacities representing complicated silicosis or acute silicosis with characteristic pulmonary edema, interstitial inflammation, and the accumulation within the alveoli of proteinaceous fluid rich in surfactant.

26. “*Silica*” means a respirable crystalline form of silicon dioxide, including quartz, cristobalite, and tridymite.

27. “*Silica action*” means a claim for damages or other civil or equitable relief presented in a civil action arising out of, based on, or related to the health effects of exposure to silica, including loss of consortium, wrongful death, mental or emotional injury, risk or fear of disease or other injury, costs of medical monitoring or surveillance, and any other derivative claim made by or on behalf of a person exposed to silica or a representative, spouse, parent, child, or other relative of that person.

28. “*Silicosis*” means simple silicosis, acute silicosis, accelerated silicosis, or chronic silicosis caused by the inhalation of respirable silica.

29. “*Supporting test results*” means copies of the B-reading; pulmonary function tests, including printouts of the flow volume loops, volume time curves, diffusing capacity of the lung for carbon monoxide graphs, lung volume tests and graphs, quality control data and other pertinent data for all trials and all other elements required to demonstrate compliance with the equipment, quality, interpretation, and reporting standards set forth in [this chapter](#); B-reader reports; reports of X ray examinations; diagnostic imaging of the chest; pathology reports; and all other tests reviewed by the diagnosing physician or a qualified physician in reaching the physician’s conclusions.

[2017 Acts, ch 11, §11](#)

NEW section