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U.S.

Asbestos Warnings Grow With Penn State Lawsuit, National Push

Cleanup proposal in Pennsylvania and bill in Washington join efforts to curb and remedy use of material



Pennsylvania Gov. Tom Wolf in January proposed spending over \$1 billion to remove asbestos and lead in schools.

PHOTO: MARC LEVY/ASSOCIATED PRESS

By [Kris Maher](#)

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PITTSBURGH—Peter Labosky Jr. had been retired for 12 years from his job as a professor of wood sciences at Penn State University when he was diagnosed in 2014 with mesothelioma. He died five months later.

Mr. Labosky's family alleges in a lawsuit filed in 2016 that the university negligently exposed him to asbestos dust after failing to clean it up in buildings where he taught. The case is working its way through state court in Pittsburgh.

The lawsuit is proceeding amid louder calls to clean up asbestos and halt its use nationally. It appears to be the first of its kind brought against a university by a former employee, creating a new path for asbestos litigation, said legal experts. It could open the

door to similar suits in Pennsylvania, and raise awareness about potential exposures at universities in other states.

“This could raise a lot of concern by employers with regard to the facilities they provide to their workers which may contain asbestos products,” said Lester Brickman, an emeritus professor at Benjamin N. Cardozo School of Law in New York who has written extensively on asbestos litigation.

Penn State defends its handling of asbestos as proactive and careful and doesn't comment on pending litigation, said Lisa Powers, a spokeswoman for the university.

Asbestos was widely used from the 1940s to the 1980s and is still in hundreds of thousands of buildings, including schools, across the country. Asbestos was banned from most building materials in the 1980s, but older buildings, including schools, typically contain ceilings, floor tiles, pipe insulation and other materials with asbestos used for its fireproof and acoustic qualities.

Last year, 18 state attorneys general asked Congress to prevent all uses of the material. A bill in the House would ban the manufacture and distribution of asbestos.

In Pennsylvania, Gov. Tom Wolf in January proposed spending more than \$1 billion to remove asbestos and lead in schools. The School District of Philadelphia said it has 175 buildings with asbestos, and it has closed nine since September due to health concerns.

“Asbestos can be contained and managed on-site,” said Claire Barnett, executive director of Healthy Schools Network, which advocates for removing environmental hazards in schools. But if maintenance is poor, moisture can cause asbestos to crumble, exposing its deadly dust, she said. “It happens everywhere.”

An estimated 40,000 people die in the U.S. from asbestos-related diseases each year, including mesothelioma, a cancer of the linings of the lungs or stomach that can develop 30 years or more after exposure.

Asbestos litigation, which has been moving through court dockets for years, has to date largely targeted product manufacturers. Workplace injuries are usually handled through workers' compensation claims, but people who develop asbestos-related diseases years after retiring are often beyond the deadline for filing such a claim against an employer.

SHARE YOUR THOUGHTS

Is asbestos a concern for you at your school or workplace? Join the conversation below.

A 2013 court ruling in Pennsylvania allowed people who develop an asbestos-related disease to sue an employer for negligence outside of the workers' compensation act and made the suit against Penn State, and other potential cases, possible.

Universities typically monitor asbestos, as required by federal and state regulations, and remove it during renovations.

Penn State found in the 1970s that close to 100 buildings contained asbestos, according to court documents. By 1984, the school had spent over \$500,000 removing asbestos.

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During the 1980s the cost of removing asbestos at the university rose fivefold, according to court documents. In 1989, a Penn State official stated in a memorandum that the school would no longer remove asbestos when it was encountered.

“In all future projects, our goal should be to minimize the removal of asbestos to only what is absolutely required,” the official wrote. “Obviously, this will help us a lot in the area of project budgets.”

Michael Robb, a Pittsburgh attorney representing the Labosky family, alleges that the university scaled back its asbestos removal to cut costs while it knew about health risks. He cites a 2006 Penn State document stating that over 500 university buildings contained asbestos.

Penn State alleged in court papers recently that Mr. Labosky's family members who worked at an asbestos manufacturer exposed him to asbestos on their clothes starting in

the 1940s, which caused his mesothelioma. Mr. Robb said the university hasn't offered evidence to support the allegation.

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