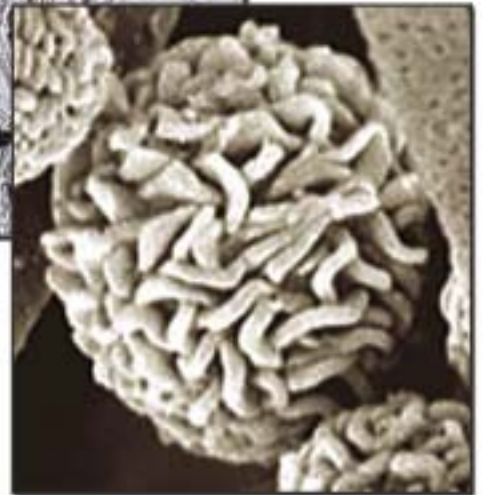
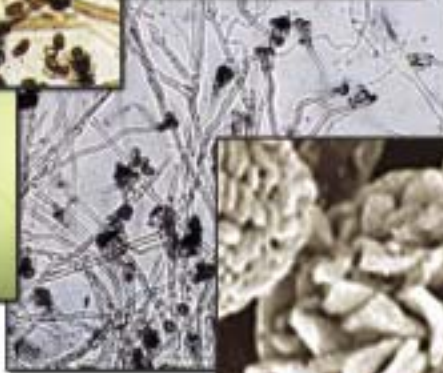
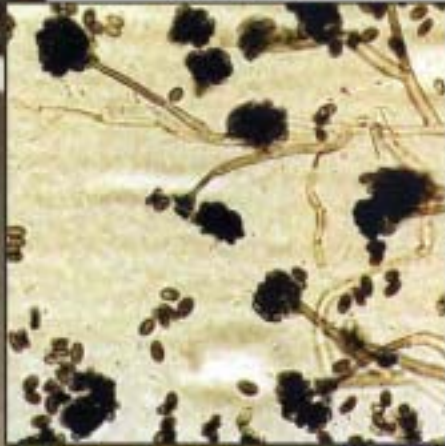


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Black Mold and Mildew and Spores, Oh My!



By Judon Fambrough

Homeownership has its risks. In the "Wizard of Oz," a house is sucked away by a tornado. While Dorothy's disaster was only a dream, for many others, nature's real nightmares include hail, hurricanes and floods.

But not all natural disasters announce their presence with roars and rumblings. Recently, Houstonians suffered unprecedented losses from Tropical Storm Allison. When the cleanup began, homeowners, insurance companies and real estate professionals were confronted with a silent but insidious menace — mold contamination.

Most people are continuously exposed to mold without being aware of it, but only 24 of the 1,000 U.S. mold species are toxic. While some molds can be a serious problem, others, like the ones responsible for creating cheese and penicillin and those that digest decaying matter, are beneficial.

Molds reproduce by sending off spores, and the spores of certain species contain poisons that affect health when inhaled or ingested. The chief culprit is black mold (*Stachybotrys chartarum*).

Researchers estimate that about 10 percent of the population is severely allergic to mold. Depending on sensitivity, people may experience headaches, runny nose, skin rashes, memory loss, coughing and long periods of listlessness. Those who are most sensitive

may experience severe asthma or feel they have a perpetual case of the flu. Newborns, the elderly and those with compromised immune systems can be severely and even fatally affected. Susceptibility varies with genetic predisposition, age, state of health and level of exposure.

Buildings make perfect meals for molds. The cellulose in insulation and the paper backing of drywall and wallpaper attract some molds. Others prefer the glues used to bond carpet to its backing and Formica to counter tops. Mold can grow undetected behind walls. One square foot of drywall can harbor more than 300 million spores.

In addition to food, molds need a conducive climate. Excessive moisture, reduced lighting, insufficient air circulation and warm temperatures produce ideal conditions. Leaky water pipes and roofs, cracked foundations, overflowing washing machines and plumbing backups encourage the spread of mold.

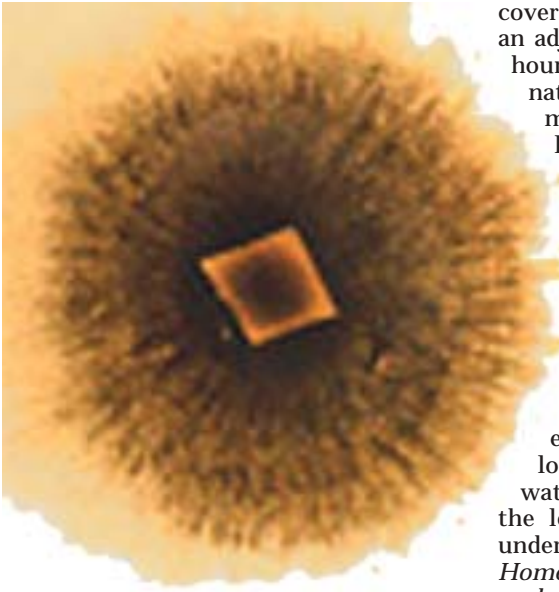
A visual inspection or a musty odor may reveal its presence. Particular attention should be given to areas subject to water damage (behind cabinets, around plumbing fixtures, under carpet, inside wall cavities, attics and other areas containing porous material). Cracked or stained plasterboard, condensation on

windows, loose drywall tape and warped wood are visual indicators. Water damage not addressed within 72 hours may result in the growth and spread of mold.

Assessing Infestation

A reputable environmental engineer, microbiologist or other investigator can inspect, measure and collect samples for laboratory testing to determine the type of mold or fungus present. Other professionals may be needed in the assessment and remediation process including plumbers to investigate and repair plumbing leaks; engineers to find the cause of molds, such as structural damages, and to formulate a remediation plan; toxicologists to evaluate health risks; and a general contractor to determine the scope and costs of repairs.

Testing by an indoor air quality consultant can determine the presence of toxic mold in the air. The Texas Depart-



ment of Health (TDH) website, www.tdh.state.tx.us/beh/iaq/, has a list of certified indoor air consultants. The department does not recommend testing if only a small area of mold exists.

Mold's current high-profile status has created a market for "mold-removal specialists." According to TDH, no standards or certifications exist for mold removal companies. TDH recommends getting at least three estimates before entering a contract. Each estimate should detail the exact steps the company will take in removing the mold so the estimates can be compared.

Speedy Removal Essential

Once mold-damaged or contaminated material is found, speed is of the essence. Any source of moisture must be eliminated and the damaged material cleaned, removed, dried or discarded. Humidity inside the building should be kept to less than 60 percent — 40 percent if possible.

Sheetrock damaged by standing water must be removed at least a foot above the high water mark, more if need be, to allow the wall cavities to drain and dry properly. All wet or damp insulation should be extracted.

Porous materials must be removed and discarded. Nonporous material should be scrubbed with a mild detergent then rinsed using a solution of ¼ to ½ cup of bleach per gallon of water. Guidelines for cleaning up water damage are on the web at <http://www.dehs.umn.edu/iaq/flood.html>.

Insurance Coverage and Litigation

If mold infestation is attributable to a covered loss under an insurance policy, the insurance carrier should be contacted to determine whether the policy will

cover the cost of cleanup. Generally, if an adjuster inspects the loss within 48 hours of the initial damage, a determination can be made as to whether the mold is the result of a pre-existing leak or a new one.

As Texans have become aware of the health problems associated with exposure to mold, the incidence of lawsuits filed against insurance carriers has grown. The standard Texas Homeowner's Insurance Form B Policy excludes "loss caused by rust, rot, mold or other fungi, dampness of atmosphere and contamination." However, the policy covers "ensuing loss" caused by collapse of building, water damage or breakage of glass, if the loss would otherwise be covered under the policy. In the unpublished case *Home Insurance Company v. Dennis and Claudia McClain*, the appellate court ruled that the ensuing loss caused by mold and mildew from a leaky roof was covered by the homeowner's insurance policy.

In June 2001, a Travis County District Court jury awarded a Dripping Springs family a \$32 million verdict against Farmers Insurance Group for mishandling a black mold damage claim. The couple alleged the company committed fraud by failing to adequately and swiftly cover repairs for a water leak, allowing toxic black mold to overrun their 22-room mansion and cause health problems.

The insurance company agreed that the home was contaminated but asserted it could be cleaned up for \$1.8 million. The plaintiffs said the company's offer to fix the problem came months past the time when a cleanup could have cured the problem.

In addition to the "ensuing loss" provision, homeowners may look to the "leaky plumbing" provision of an insurance policy if the moisture that caused the mold can be traced to plumbing. This provision permits coverage for a cracked foundation otherwise excluded by the policy.

If moisture stems from an improperly designed or constructed building, owners may seek recovery from the contractor, architect, building designer or repair person. However, in Texas, architects are no longer liable for a faulty building design ten years after construction.

If moisture is caused by something not included on the seller's disclosure form, such as a cracked foundation, a leaky roof or the property's susceptibility to flooding, a possible cause of action may lie against the seller for an ensuing mold infestation. The Texas Association of Realtors' seller's disclosure form was

revised to include an item addressing mold.

The Texas Department of Insurance opened hearings in June 2001 to address whether mold and mildew damage coverage should be included in homeowners' policies. Insurers want to exclude coverage because of the high costs involved. Investigating a mold claim and covering the additional living expenses for the homeowner runs an average of \$10,000. If mold removal is required, cleanup costs can rise to \$30,000 per claim.

Currently, Texans pay an average of \$879 annually for homeowner's insurance, nearly double the national average of \$481. If mold coverage is included, premiums may rise by as much as 30 to 40 percent according to some estimates. On the other hand, no coverage could spell financial disaster for homeowners. A mold infestation could cost people their homes, their savings or both.

Hysteria Leads to Claims

A Houston attorney who publishes the weekly *Texas Insurance Law Newsbrief* says that mold publicity in the past 18 months has led to hysteria. CBS recently aired a feature about mold with Erin Brockovich on "48 Hours." Newspaper accounts from across the state report that mold in schools, churches and courthouses is causing closures and lawsuits because of health-related problems.

Homeowners have been induced by the mass media to turn in claims against their insurance carriers without knowing the facts. State Farm Insurance reports the number of mold-related claims has increased 65 percent since January 2001. Some homeowners have used the hype to their advantage to secure new roofs for their homes.

What's to Come?

According to the TDH, Texans spend about 90 percent of their time indoors. This increases their exposure to indoor pollutants. Whether stories of mold-related health problems will continue to saturate the media over the long term or fade away like those on radon gas remains to be seen.

It's too bad that homeowners can't just click their ruby slippers and make mold disappear. Obviously, they should be aware of potential mold problems and take steps to deter its growth. But if mold is discovered in your home, don't panic — it might not be as bad as you think. ♣

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