

# **Veterans Benefits: Practice and Procedure at the VA and Beyond**

**Fall 2013**

**Friday, October 25, 2013**  
Concierge Conference Center  
780 Third Avenue  
New York, NY

**9:00 a.m. – 12:00 p.m.**

*CLE Course Materials  
and  
NotePad<sup>©</sup>*

**Co-Sponsors**

NYSBA Committee on Veterans (COVA)  
NYSBA Elder Law Section  
NYSBA Veterans Committee  
NYSBA Committee on Continuing Legal Education

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Continuing Legal Education**

# Lawyer Assistance Program 1.800.255.0569



## Q. What is LAP?

**A.** The Lawyer Assistance Program is a program of the New York State Bar Association established to help attorneys, judges, and law students in New York State (NYSBA members and non-members) who are affected by alcoholism, drug abuse, gambling, depression, other mental health issues, or debilitating stress.

## Q. What services does LAP provide?

**A.** Services are **free** and include:

- Early identification of impairment
- Intervention and motivation to seek help
- Assessment, evaluation and development of an appropriate treatment plan
- Referral to community resources, self-help groups, inpatient treatment, outpatient counseling, and rehabilitation services
- Referral to a trained peer assistant – attorneys who have faced their own difficulties and volunteer to assist a struggling colleague by providing support, understanding, guidance, and good listening
- Information and consultation for those (family, firm, and judges) concerned about an attorney
- Training programs on recognizing, preventing, and dealing with addiction, stress, depression, and other mental health issues

## Q. Are LAP services confidential?

**A.** Absolutely, this wouldn't work any other way. In fact your confidentiality is guaranteed and protected under Section 499 of the Judiciary Law. Confidentiality is the hallmark of the program and the reason it has remained viable for almost 20 years.

### Judiciary Law Section 499 Lawyer Assistance Committees Chapter 327 of the Laws of 1993

Confidential information privileged. The confidential relations and communications between a member or authorized agent of a lawyer assistance committee sponsored by a state or local bar association and any person, firm or corporation communicating with such a committee, its members or authorized agents shall be deemed to be privileged on the same basis as those provided by law between attorney and client. Such privileges may be waived only by the person, firm or corporation who has furnished information to the committee.

## Q. How do I access LAP services?

**A.** LAP services are accessed voluntarily by calling **800.255.0569** or connecting to our website [www.nysba.org/lap](http://www.nysba.org/lap)

## Q. What can I expect when I contact LAP?

**A.** You can expect to speak to a Lawyer Assistance professional who has extensive experience with the issues and with the lawyer population. You can expect the undivided attention you deserve to share what's on your mind and to explore options for addressing your concerns. You will receive referrals, suggestions, and support. The LAP professional will ask your permission to check in with you in the weeks following your initial call to the LAP office.

## Q. Can I expect resolution of my problem?

**A.** The LAP instills hope through the peer assistant volunteers, many of whom have triumphed over their own significant personal problems. Also there is evidence that appropriate treatment and support is effective in most cases of mental health problems. For example, a combination of medication and therapy effectively treats depression in 85% of the cases.

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## Personal Inventory

Personal problems such as alcoholism, substance abuse, depression and stress affect one's ability to practice law. Take time to review the following questions and consider whether you or a colleague would benefit from the available Lawyer Assistance Program services. If you answer "yes" to any of these questions, you may need help.

1. Are my associates, clients or family saying that my behavior has changed or that I don't seem myself?
2. Is it difficult for me to maintain a routine and stay on top of responsibilities?
3. Have I experienced memory problems or an inability to concentrate?
4. Am I having difficulty managing emotions such as anger and sadness?
5. Have I missed appointments or appearances or failed to return phone calls?  
Am I keeping up with correspondence?
6. Have my sleeping and eating habits changed?
7. Am I experiencing a pattern of relationship problems with significant people in my life (spouse/parent, children, partners/associates)?
8. Does my family have a history of alcoholism, substance abuse or depression?
9. Do I drink or take drugs to deal with my problems?
10. In the last few months, have I had more drinks or drugs than I intended, or felt that I should cut back or quit, but could not?
11. Is gambling making me careless of my financial responsibilities?
12. Do I feel so stressed, burned out and depressed that I have thoughts of suicide?

There Is Hope

**CONTACT LAP TODAY FOR FREE CONFIDENTIAL ASSISTANCE AND SUPPORT**

The sooner the better!

**Patricia Spataro, LAP Director**

**1.800.255.0569**

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## ACCESSING THE ONLINE ELECTRONIC COURSE MATERIALS

All program materials will be distributed exclusively online in searchable PDF format, allowing attendees more flexibility in storing this information and allowing you to copy and paste relevant portions of the materials for specific use in your practice. **It is strongly recommended that you save the course materials in advance in the event that you will be bringing a computer or tablet with you to the program.**

Prior to a scheduled program date, all registrants will receive an email message containing a hyperlink that when clicked will provide you with access to the complete course materials in a searchable PDF format which can be downloaded to your computer using the "Save As" option under your "File" tab. **Printing the complete materials is not required for attending the program.** Online materials are updated periodically to reflect last minute submissions from program faculty, guaranteeing that you will always have the latest version of the materials.

**To access the complete set of course materials, please insert the following link into your browser's address bar and click 'enter' [www.nysba.org/2013VeteransBenefitsECM](http://www.nysba.org/2013VeteransBenefitsECM)**

A *CLE NotePad*® (paper) will be provided to all attendees at the live program site. The *CLE NotePad*® includes lined pages for taking notes on each topic, as well as any PowerPoint presentations submitted prior to printing.

Traditional printed course books may be ordered at the program site for a discounted price and will be shipped subsequent to the program date.

### **Please note:**

You must have Adobe Acrobat on your computer in order to view, save, and/or print the files. If you do not already have this software, you can download a free copy of Adobe Acrobat Reader at this link: <http://get.adobe.com/reader/>

In the event that you are bringing a laptop, tablet or other mobile device with you to the program, please be sure that your batteries are fully charged in advance as additional electrical outlets may not be available at your program location. |

NYSBA cannot guarantee that free or paid WI-FI access will be available for your use at your program location, even if you can see a connection.

## ATTENDANCE VERIFICATION FOR NEW YORK MCLE CREDIT AND PROGRAM EVALUATION PROCESS

**Attendance Verifications:** In order to receive your New York MCLE credit, you are required to complete and return the Verification of Attendance form. If you are attending a two-day program, you will receive a separate form on each day of the program.

The bottom half of the form should be filled out and returned to the Registration Staff

after the morning session has ended. The top half should be filled out and returned to the Registration Staff at the end of the program. **Please be sure to turn in your form at the appropriate times – we cannot issue your New York MCLE credit without it.** Your MCLE Certificate will be emailed to you a few weeks after the program.

**Please note: Partial credit for program segments not allowed.** Under the New York State Continuing Legal Education Board Regulations and Guidelines, attendees at CLE programs cannot receive MCLE credit for a program segment unless they are present for the **entire segment**. Persons who arrive late, depart early, or are absent for any portion of the segment will not receive credit for that segment.

**Evaluations:** Program evaluations are processed online. After the program is over, you will receive an email from NYSBA CLE with a link to the online evaluation form.

To complete your registration process, click on the link in the email within the next 72 hours and fill out your confidential online program evaluation.

If you are not able to access the evaluation form by clicking on the link in the email, you can type the appropriate URL below for your program location into the address bar of your web browser to access the evaluation.

**New York City**     <http://survey.vovici.com/se.ashx?s=109446F36D882BEA>

The New York State Bar Association is committed to providing high quality continuing legal education courses, and your feedback regarding speakers and program accommodations is important to us. Please be sure to fill out the online evaluation form after the program! Thank you for choosing NYSBA CLE programs.

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This program is offered for educational purposes. The views and opinions of the faculty expressed during this program are those of the presenters and authors of the materials, including all materials that may have been updated since the books were printed. Further, the statements made by the faculty during this program do not constitute legal advice.

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## **AGENDA**

- **8:30-9:00 p.m.**                      **REGISTRATION**
  
- **9:00-10:00 a.m.**                      **Representation Before the VA**
  - VA Claims Procedures
  - Basic Eligibility for VA Benefits
  - The Right to Appeal
    - *Regional Office*
    - *DRO Process*
    - *Board of Veterans Appeals*
    - *Court of Appeals for Veterans Claims*
    - *Federal Circuit*
  
- **10:00 – 10:50 p.m.**                      **Types of Benefits**
  - Disability Compensation Benefits (38 U.S.C. Chapter 11)
  - Dependency and Indemnity Compensation Benefits (38 U.S.C. Chapter 13)
  - Pension Benefits (38 U.S.C. Chapter 15)
  
- **10:50 – 11:05 a.m. –**                      **REFRESHMENT BREAK**
  
- **11:05 a.m. – 12:00 p.m.**                      **Hot Topics in Veterans Law: Current Trends in Veterans Practice and Specialized Areas of Practice**



**IMPORTANT NOTICE:**

PARTIAL CREDIT FOR PROGRAM SEGMENTS NOT ALLOWED.

Under the New York State Continuing Legal Education Board Regulations and Guidelines, attendees at CLE programs cannot receive MCLE credit for a program segment unless they are present for the entire segment. Persons who arrive late, depart early, or are absent for any portion of the segment will not receive credit for that segment.

**PROGRAM FACULTY**

**Nancy Y. Morgan**, Partner, Finkelstein & Partners, LLP

**Felicia Pasculli**, Principal, The Elder Law & Special Needs Practice of Felicia Pasculli

### **PROGRAM DESCRIPTION**

This program is geared towards attorneys at all levels of experience and backgrounds who are interested in representing veterans in their claims and appeals for veterans benefits. Both VA accredited attorneys and attorneys who are not yet accredited to practice at the VA, but are interested in becoming accredited or learning more about Veterans Law, are encouraged to attend. This CLE also complies with the CLE requirements set forth under 38 C.F.R. § 14.629 for VA accredited attorneys.

In addition to learning about the many kinds of benefits available to Veterans and key aspects of Veterans Law, attendees will benefit by learning how to navigate the VA process, how and when to file an appeal, how to meet the requisite evidentiary standards for the specific benefit, how procedure may be changing or may have recently changed, and how this affects the practice.

### **MCLE CREDITS**

#### **3.0 TOTAL CREDITS**

3.0 Areas of Professional Practice

This course has been approved for MCLE credit in New York for all attorneys, including newly admitted (less than 24 months).

### **PROGRAM LOCATION**

*(F) October 25, 2013*

*Concierge Conference Center*

*780 Third Avenue*

*New York, NY 10017*



## **Representation Before the VA**

- **Basic Eligibility for VA Benefits**
- **The Right to Appeal**
  - *Regional Office*
  - *DRO Process*
  - *Board of Veterans Appeals*
  - *Court of Appeals for Veterans Claims*
  - *Federal Circuit*



# Introduction to Veterans Benefits Law

NYSBA CLE  
October 25, 2013

## Statistics

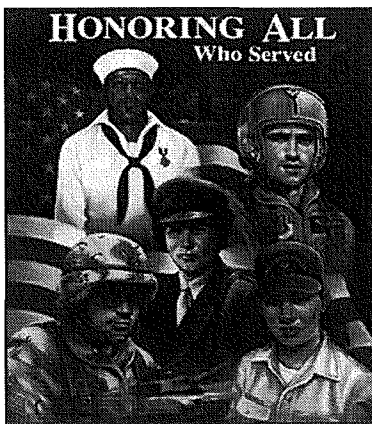
- Only 3.9 million Veterans receive VA benefits
- 725,469 pending claims
  - 66% are supplemental
  - 34% are original
- 421,793 backlogged claims (pending more than 125 days)
- In the fiscal years 2010, 2011, & 2012, VA completed 1 million claims per year
- In 2012, the VA awarded over \$54 billion in compensation and pension benefits

\*Statistics taken from <http://www.vba.va.gov/reports/mmwr/#characteristics>

## VHA v. VBA

- Veterans Health Administration v. Veterans Benefits Administration
- VHA – America's largest integrated healthcare system with over 1,700 sites of care serving 8.76 million Veterans each year
- VBA – Provides benefits and services to Veterans, such as compensation benefits, pension and fiduciary services, and insurance services

## Who is a “Veteran”?





## Who is a "Veteran" ? (Cont.)

- Eligibility for Service Connected Benefits
  - Discharge *"other than dishonorable"*
  - Active Service of 90 days minimum
    - 1 day recognized by VA as active period of war
  - Permanently or totally disabled at time of application
    - Disability not due to willful misconduct of Veteran
  - Special rules for National Guard/Reservist-Federalized

## Available Benefits

- Injury or Illness connected to service
  
- Other benefits (not discussed today)
  - Medical Treatment
  - Educational Benefits

## “Service-Connection”

- A disease is deemed service-connected when the VA determines that a Veteran’s injury, disease, or condition was incurred in or aggravated as a result of service in the U.S. Military
- Once the injury, disease, or condition is deemed “service-connected” the VA compensates the Veteran accordingly

## Compensation

- After disability is “service-connected”, it is assigned a rating and compensated based on the severity
- 10% increments from zero to 100%
- Ratings are based on the impact of the disability on or interference with a Veteran’s ability to obtain/maintain substantially gainful employment

## Compensation Rates

U.S. Department of Veteran Affairs  
Veterans Compensation Benefits Rate Table – Effective 12/2/12

Rating Percentage	Compensation amount (\$)		
	Veteran Alone	Veteran w/ spouse only	Veteran w/ spouse & child
10%	\$129	x	x
20%	\$255	x	x
30%	\$395	\$442	\$476
40%	\$569	\$631	\$677
50%	\$810	\$888	\$946
60%	\$1,026	\$1,120	\$1,189
70%	\$1,293	\$1,402	\$1,483
80%	\$1,503	\$1,628	\$1,720
90%	\$1,689	\$1,830	\$1,933
100%	\$2,816	\$2,973	\$3,088

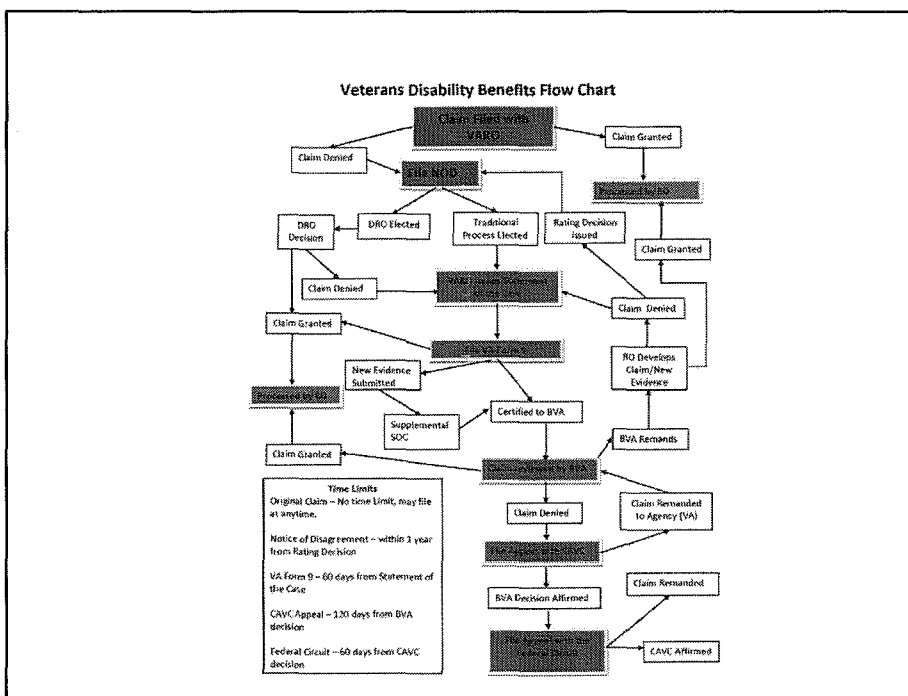
## Multiple Ratings

- VA *does not* add rating percentages together for multiple service-connected disabilities, but instead uses a Combined Ratings Table under the Code of Federal Regulations when considering multiple ratings
  - eg. 10% +10%+10%+10% = 30% overall rating
  - eg. 50% + 20% = 60% overall rating

## Representation: How to Get Started

- VA Accreditation
  - Form 21-22a: You can not represent a Veteran, either for a fee or pro-bono at the agency level without accreditation (exhibit)
  - CLE requirements
- Admission to CAVC Bar (insert/reference exhibit)
- Training

CHM Control No. 104-1017 Department of Veterans Affairs Office of the Inspector General	
<b>APPOINTMENT OF INDIVIDUAL AS CLAIMANT'S REPRESENTATIVE</b>	
Note: If you would prefer to hire a service organization, please use VA Form 21-22, Appointment of Veterans Service Organization As Claimant's Representative.	
1. AUTHORIZATION FOR REPRESENTATIVE'S ACCESS TO RECORDS PROTECTED BY SECTION 552, TITLE 38, U.S.C.	
<input type="checkbox"/> I authorize the individual named in item 7A to act as my agent to access, review, and download all records protected by 552, Title 38, U.S.C. that are necessary for the preparation of my claim. This authorization is limited to the records that are necessary for the preparation of my claim and does not include any other records.	
2. LIMITATION OF CONSENT: My consent in item 1 is limited to my consent to my representative to access, review, and download all records protected by 552, Title 38, U.S.C. that are necessary for the preparation of my claim.	
3. AUTHORIZATION FOR REPRESENTATIVE TO ACT ON CLAIMANT'S BEHALF TO CHANGE CLAIMANT'S ADDRESS	
<input type="checkbox"/> I authorize the individual named in item 7A to act as my agent to change my address to my VA address. This authorization is limited to the address that is necessary for the preparation of my claim and does not include any other records.	
4. LIMITS OF REPRESENTATION - SERVICE OR ATTORNEY-ONLY	
<input type="checkbox"/> I authorize my representative to act as my agent to represent me in matters involving my service or attorney-only claims.	
5. SIGNATURE OF REPRESENTATIVE	
6. SIGNATURE OF CLAIMANT	
7. DATE OF SIGNATURE	
8. CLAIMANT'S RELIGIOUS BELIEFS	
9. CLAIMANT'S CONTACT INFORMATION	
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## Procedural Steps

- RO Level
  - Application
  - VCAA Notice
  - Submission of records or evidence
  - Rating Decision
  - NOD
  - Appeal to BVA or DRO
  - Statement of the Case
  - Appeal to BVA (VA Form 9)

*See Veterans Disability Benefits Flow Chart*

## Procedural Steps (Cont.)

- BVA Level
  - Decision
  - Reconsideration/Remand
  - Appeal to CAVC
    - Decision on record (Brief)
    - Face-to-face hearing in D.C.
    - Video hearing
    - Judge travels to RO – “travel board”

*See Veterans Disability Benefits Flow Chart*

## Procedural Steps Continued...

- CAVC
  - Decision
  - Remand
  - Appeal to Federal Circuit

*See Veterans Disability Benefits Flow Chart*

## Step 1: File the Claim

- The Veteran must file the initial claim for VA benefits with his/her RO
- Typically, it will be the RO closest to the Veteran, even if it is not in the same state

## Regional Offices

- Regional Offices are typically referred to as the RO or VARO
- There are 57 Regional Offices located throughout the country
- Each state has at least one Regional Office

## New York State RO

### New York RO

245 W. Houston Street

New York, NY 10014

Attorney Fee Coordinator: Stacy White 212-807-3462

### Buffalo RO

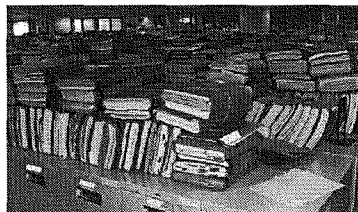
130 S. Elmwood Avenue

Buffalo, NY 14202

Attorney Fee Coordinator: Nancy Roberts 716-857-3130

## VA Claims File

- Often referred to as the C-File
- Created by the VA and stored at the RO
- C-File Contents
  - Application(s), Correspondence, Decision(s), Service Member Documents, Service Medical Records (usually)



\*Winston-Salem Regional Office  
pictured to the right



## Additional Records

- Missing Service Medical Records
- Records from National Personnel Records Center (NPRC)
- Unit Daily Reports, Deck Logs, etc.
- Current medical treatment records
  - VA & Private Providers
- Lay evidence

## Types of Claims

- Direct service connection
- Secondary service connection
- Claim to reopen based on new and material evidence (NME)
- Increased-rating claim for service-connected condition
- Claim for total disability based on individual unemployability (TDIU)
- *VA Must consider all theories when adjudicating a claim for service connection*

## “Service-Connected” Disability

- “Veteran” status
- Current disability
- In-service event/occurrence
  - Can also be aggravation of a pre-existing condition
- Medical evidence of a link between the disability and event in service
  - “Nexus”

## Current Disability

- “Current Disability” includes a contemporaneous ***Diagnosis*** by a medical professional at the time of the VA application, or after the date of the application for benefits

## In-Service Event/Occurrence

- Evidence of a disease, injury, or an event that coincides with military service
- Aggravation of a pre-existing condition
  - Evidence that a pre-existing condition was aggravated by an in-service event/occurrence *beyond the natural progression of the disease*
- VA Presumptions

## Medical Nexus

- A link between the current disability and the in-service disease, injury, or event
- Magic Language
  - “as least as likely as not”
  - 50% or greater chance that the disease, injury, or event is related to service

## Fully Developed Claim (FDC)

- New program that offers faster decisions from VA for compensation, pension, and survivor benefit claims
- Applicants submit all relevant records in their possession, and all records that are easily obtainable (eg. private medical records)
- VA has all information needed for review and can review more quickly

## Adjudication of Claim at RO

- Rating Decisions address 3 primary issues – any or all may be appealed
  - ❖ Service Connection – this is a predicate to the following two issues
  - ❖ Percentage of Disability – the VA uses a set of diagnostics to evaluate disabilities
  - ❖ “Effective Date” and “Retroactive Benefits” – typically the date assigned to a service-connected disability is the date the claim was submitted
    - If the claim is filed within a year of discharge, the effective date will be the Veteran’s discharge date

## NME or CUE

- A claim can be re-opened at any time based on New and Material Evidence or Clear and Unmistakable Error

## New and Material Evidence

- “New” is evidence that has not previously been submitted to the VA
- “Material” is evidence that by itself, or when considered with other evidence on record, relates to an unestablished fact necessary to substantiate the claim
  - Cannot be redundant of evidence on record
  - Must raise a reasonable possibility of substantiating the claim

## Clear and Unmistakable Error (CUE)

- CUE claim can be present when the correct facts/evidence known at the time of the decision were not before the RO or BVA
- or
- CUE claim can be present when the law at the time of the decision was incorrectly applied

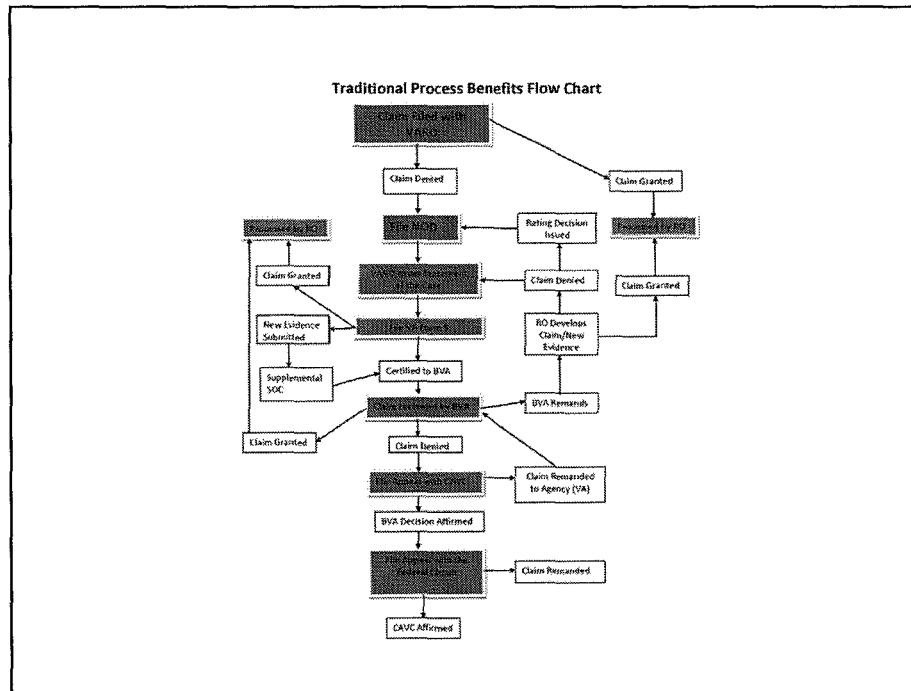
## Right to Appeal

- An appeal can be filed when the VA denies a claim or issues a rating percentage that is not analogous to the Veteran's disability
- Notice of Disagreement
  - A NOD must be filed within **one year** of the VA's Rating Decision

## Types of Appeals

- Traditional Process
  - Veteran submits NOD or the adverse Rating Decision
  - Additional evidence submitted
  - RO issues Statement of the Case
    - If Statement of the Case continues the denial, Veteran can appeal to the BVA

*See Traditional Process Benefits Flow Chart*

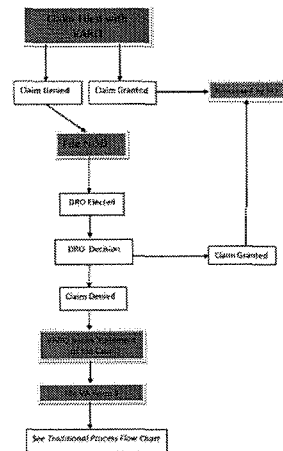


## Types of Appeals (Cont.)

- Decision Review Officer (DRO)
  - Veteran may seek reconsideration of the decision by an independent review officer at the RO
  - If DRO issues a Statement of the Case continuing the denial, Veteran can appeal to the BVA

*See Election of DRO Benefits Flow Chart*

Election of DRO Process Flow Chart





## Types of Appeals (Cont.)

- Appeal to BVA
  - Veteran may appeal the RO decision to the BVA
- Appeal to CAVC
  - Veteran can appeal the BVA decision to the CAVC
- Appeal to the Federal Circuit
  - Veteran can appeal the CAVC to the Federal Circuit

## Statement of the Case

- After a NOD is filed, the RO will issue either a Rating Decision granting service connection and/or assigning a rating, or a Statement of the Case (SOC)
- The SOC may be appealed to the Board of Veterans' Appeals (BVA)

## Board of Veterans' Appeals (BVA)

- When a RO claim is denied Veterans may appeal to the BVA
- VA Form 9
  - A VA Form 9 must be filed within sixty (60) days of the SOC or within one year of the date of the letter notifying the Veteran of the denial of the claim being appealed (i.e. the letter accompanying the rating decision)

## United States Court of Appeals for Veterans' Claims (CAVC)

- When a BVA affirms the decision of the RO the claim can be appealed to the CAVC on the basis of law
- Appeal must be filed within 120 days of the BVA decision (38 USC 7266)

## Appeal to Federal Circuit

- If the CAVC affirms the decision of the BVA, the Veteran has 60 days to file an appeal to the Federal Circuit
  - If the Federal Circuit affirms the decision of the CAVC the Veteran can apply to the Supreme Court of the United States for Certiorari

## Review

## Nehmer Claims (38 CFR 3.186)

- Vietnam Veteran with covered Herbicide disease
- If denied between 1985 and 1989 Veteran will get the earlier effective date

## Attorneys' Fees

- Getting paid
- In order to receive a fee for your services
  - NOD must have been filed after June 20, 2007
  - Must be a VA Accredited Agent or Attorney
  - Reasonable (20% past fees for VA direct pay)
  - Must have a retainer in writing
  - Retainer must elect VA withholding
  - Documents must be filed with General Counsel (GC) and the RO

## CAVC E.A.J.A. Fees

- Equal Access to Justice Act
- 28 USC 2412
- Veteran client must be a “prevailing party”
- When decision is final you can apply for fees under E.A.J.A.
- If Court awards E.A.J.A. fees, VA pays the costs
  - 30 days from when Court issues the Mandate

## Contact Information

Nancy Y. Morgan  
Finkelstein & Partners, LLP  
Veterans Services Group  
1-800-634-1212

Twitter: law4vets

Blog: <http://lawampm.com/blog/veterans-benefits/>

Website: <http://lawampm.com/veterans-services-group.html>



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**NOTES**

**Representation Before the VA**

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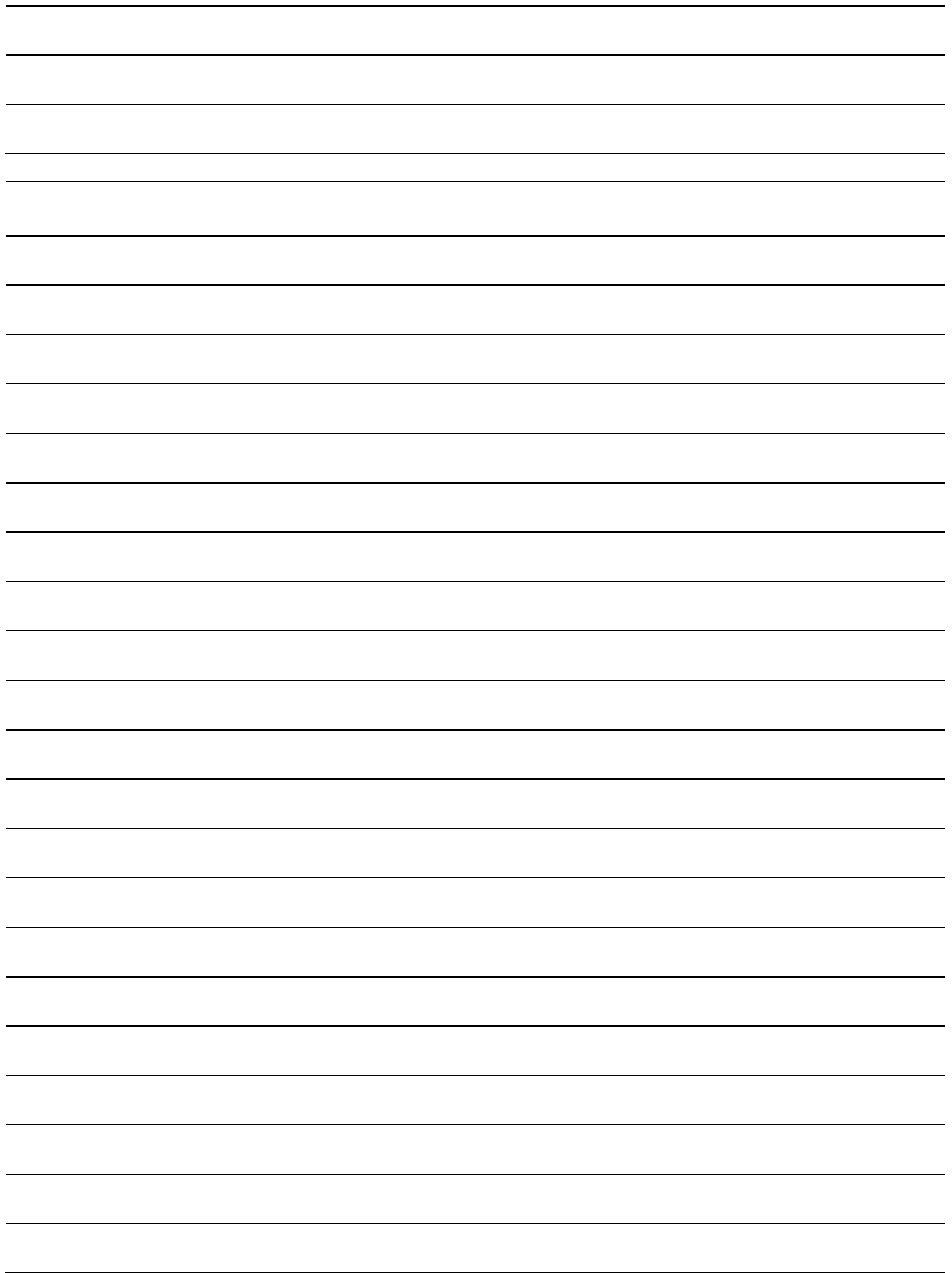
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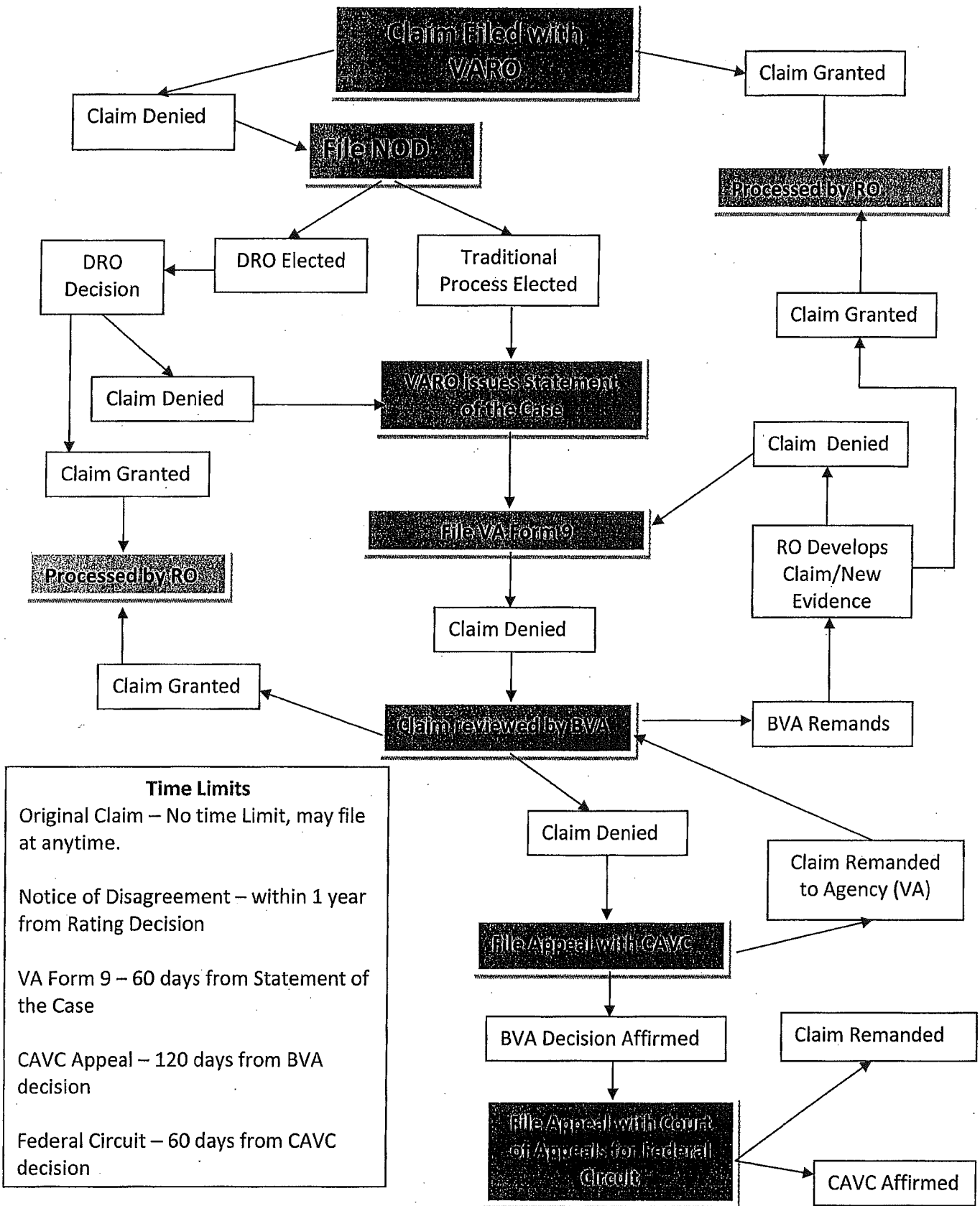


## **Types of Benefits**

- **Veterans Disability Benefits Flow Chart .....pg. 31**
- **Veteran Regional Office (RO) List ..... pg. 34**
- **Contact Information for the Board of  
Veterans Appeals (BVA) ..... pg. 37**



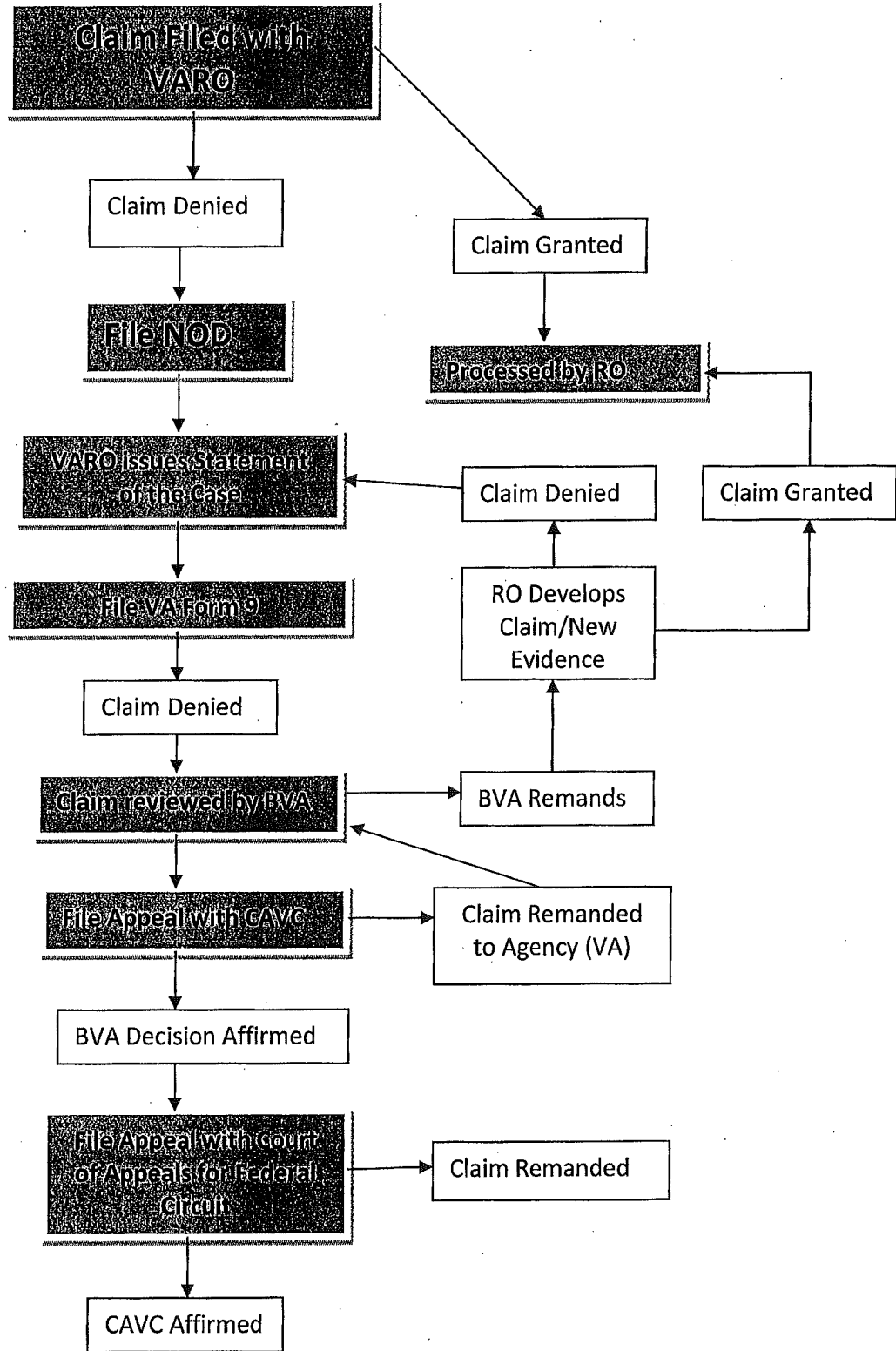
# Veterans Disability Benefits Flow Chart



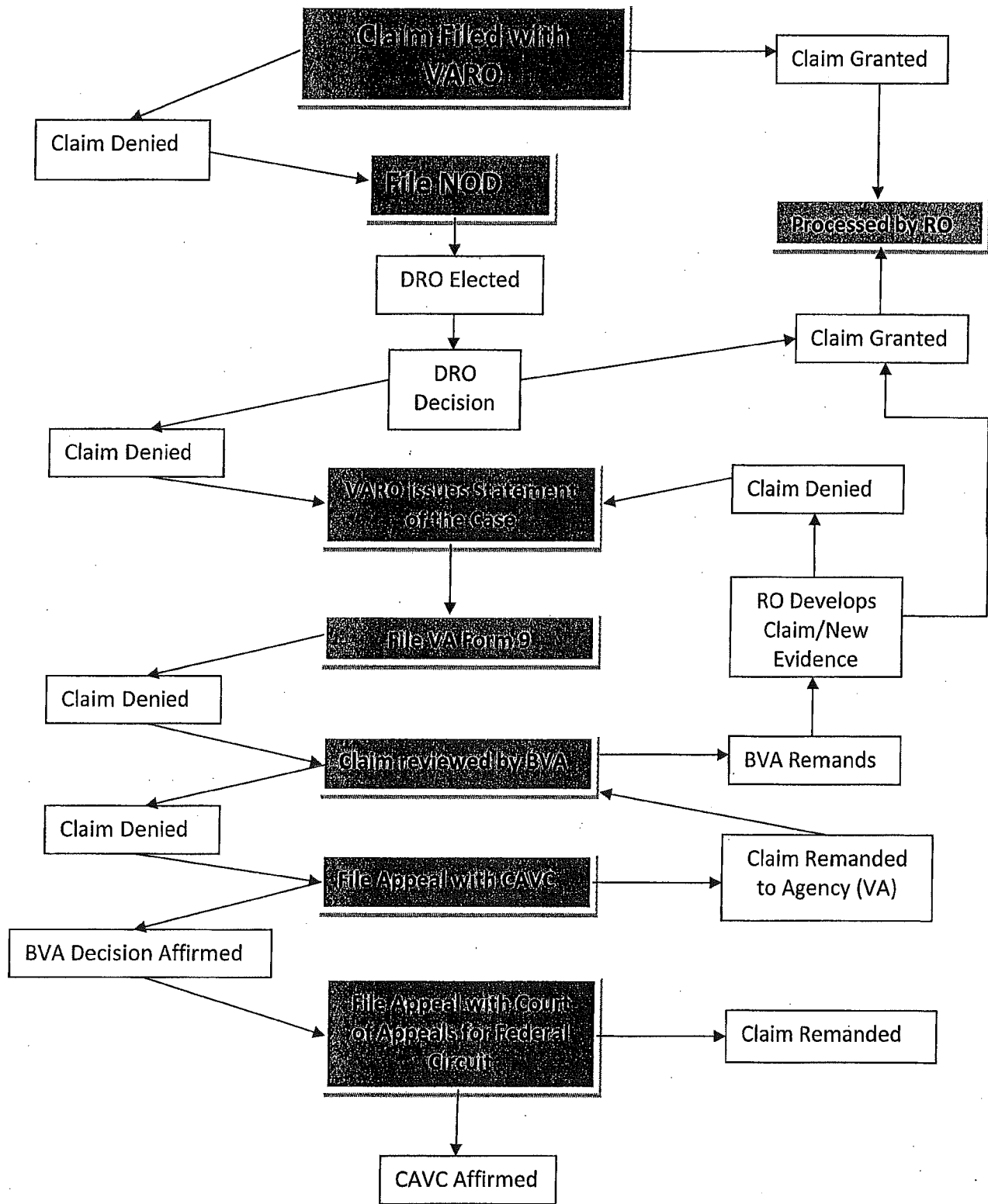
**Time Limits**

- Original Claim – No time Limit, may file at anytime.
- Notice of Disagreement – within 1 year from Rating Decision
- VA Form 9 – 60 days from Statement of the Case
- CAVC Appeal – 120 days from BVA decision
- Federal Circuit – 60 days from CAVC decision

# Traditional Process Benefits Flow Chart



## Election of DRO Benefits Flow Chart



**VETERAN REGIONAL OFFICE (RO) LIST**

**By State**

**Alaska**

Anchorage RO  
12001 North Muldoon Rd  
Anchorage, AK 99504

**Alabama**

Montgomery RO  
345 Perry Hill Road  
Montgomery, AL 36109

**Arkansas**

North Little Rock RO  
2200 Fort Roots Drive  
Building 65  
North Little Rock, AR  
72114

**Arizona**

Phoenix RO  
3333 North Central  
Avenue  
Phoenix, AZ 85012

**California**

Los Angeles RO  
Federal Building  
11000 Wilshire Boulevard  
Los Angeles, CA 90024

San Diego RO  
8810 Rio San Diego Drive  
San Diego, CA 92108

Oakland RO  
1301 Clay Street  
Rm1300 North  
Oakland CA 94612

**Colorado**

Denver RO  
155 Van Gordon Street  
Lakewood, CO 80228

**Connecticut**

Hartford RO  
555 Willard Avenue  
Newington, CT 06111

**Delaware**

Wilmington RO  
1601 Kirkwood Highway  
Wilmington, DE 19805

**District of Columbia**

Washington D.C. RO  
1722 I Street NW  
Washington, DC 20421

**Florida**

St. Petersburg RO  
PO Box 1437  
St. Petersburg, FL 33708

**Georgia**

Atlanta RO  
1700 Clairmont Road  
Decatur, GA 30033

**Hawaii**

Honolulu RO  
459 Pattersn Road  
E-Wing  
Honolulu, HI 96819

**Idaho**

Boise RO  
444 W Fort Street  
Boise, ID 83702

**Illinois**

Chicago RO  
2122 W Taylor Street  
Chicago, IL 60612

**Indiana**

Indianapolis RO  
575 N Pennsylvania Street  
Indianapolis, IN 46204

**Iowa**

Des Moines RO  
210 Walnut Street  
Des Moines, IA 50309

**Kansas**

Wichita RO  
5500 E. Kellogg Drive  
Wichita, KS 67211

**Kentucky**

Louisville RO  
321 West Main Street  
Suite 390  
Louisville, KY 40202

**Louisiana**

New Orleans RO  
1250 Poydras Street  
New Orleans, LA 70113

**Maine**

Togus RO  
1 VA Center  
Augusta, ME 04330

**Maryland**  
Baltimore RO  
31 Hopkins Plaza  
Baltimore, MD 21201

**Massachusetts**  
Boston RO  
JFK Federal Building  
Boston, MA 02203

**Michigan**  
Detroit RO  
Patrick V. McNamara  
Federal Building  
477 Michigan Avenue  
Detroit, MI 48226

**Minnesota**  
St. Paul RO  
1 Federal Drive  
Fort Snelling  
St. Paul, MN 55111

**Mississippi**  
Jackson RO  
1600 E. Woodrow Wilson  
Avenue  
Jackson, MS 39216

**Missouri**  
St. Louis RO  
400 South 18<sup>th</sup> Street  
St. Louis, MS 39216

**Montana**  
Fort Harrison RO  
3633 Veterans Drive  
PO Box 188  
Fort Harrison, MT 59636

**Nebraska**  
Lincoln RO  
3800 Village Drive  
Lincoln, NE 68516

**New Hampshire**  
Manchester RO  
Norris Cotton Federal  
Building  
275 Chestnut Street  
Manchester, NH 03101

**New Jersey**  
Newark RO  
20 Washington Place  
Newark, NJ 07102

**New Mexico**  
Albuquerque RO  
500 Gold Avenue SW  
Albuquerque, NM 87102

**New York**  
New York RO  
245 W Houston Street  
New York, NY 10014

Buffalo RO  
130 S Elmwood Avenue  
Buffalo, NY 14202

**Nevada**  
Reno RO  
5460 Reno Corporate  
Drive  
Reno, NV 89511

**North Carolina**  
Winston-Salem RO  
Federal Building 251 N  
Main Street  
Winston-Salem, NC 27155

**North Dakota**  
Fargo RO  
2101 Elm Street  
Fargo, ND 58102

**Oklahoma**  
Muskogee RO  
125 South Main Street  
Muskogee, OK 74401

**Ohio**  
Cleveland  
AJ Celebrezze Federal  
Building  
1240 East 9<sup>th</sup> Street  
Cleveland, OH 44199

**Oregon**  
Portland RO  
100 SW Main St., Floor 2  
Portland, OR 97204

**Pennsylvania**  
Pittsburg RO  
1000 Liberty Avenue  
Pittsburg, PA 15222

Philadelphia RO  
5000 Wissahickon Avenue  
Philadelphia, PA 19101

**Rhode Island**  
Providence RO  
380 Westminster Street  
Providence, RI 02903

**South Carolina**  
Columbia RO  
6437 Garners Ferry Road  
Columbia, SC 29209

**South Dakota**  
Sioux Falls  
2501 W 22<sup>nd</sup> Street  
Sioux Falls, SD 57117

**Tennessee**  
Nashville RO  
110 9<sup>th</sup> Avenue South  
Nashville, TN 37203

**Texas**  
Houston RO  
6900 Almeda Road  
Houston, TX 77030

Waco RO  
1 Veterans Plaza  
701 Clay Avenue  
Waco, TX 76799

**Utah**  
Salt Lake City RO  
550 Foothill Drive  
Salt Lake City, UT 84158

**Vermont**  
White River Junction RO  
215 North Main Street  
White River Junction, VT  
05009

**Virginia**  
Roanoke RO  
116 N Jefferson Street  
Roanoke, VA 24061

**Washington**  
Seattle RO  
915 2<sup>nd</sup> Avenue  
Seattle, WA 98174

**West Virginia**  
Huntington RO  
640 Fourth Avenue  
Huntington, WV 25701

**Wisconsin**  
Milwaukee RO  
5400 West National  
Avenue  
Milwaukee, WI 53214

**Wyoming**  
Cheyenne RO  
2360 E Pershing Boulevard  
Cheyenne, WY 82001

**Puerto Rico**  
San Juan RO  
50 Carr 165  
Guaynabo, PR 00968

**Philippines**  
Manila RO  
1131 Roxas Boulevard  
Ermita 0930  
Manila, PI 96440



## **Contact Information for the Board of Veterans Appeals (BVA)**

### **Mailing Address**

Board of Veteran's Appeals  
425 I Street NW  
Washington, DC 20001

### **Office of Litigation Support**

*Staff currently supervised by Kelly Kordich, Esq.*

Internal Code for Addressing Mail: 01C2

Phone Number: (202) 632-5238  
Fax Number: (202) 343-1419

### **BVA Ombudsman for Attorneys**

*Diane Emerson*

Phone Number: (202) 632-4617  
Fax Number: (202) 632-5842

### **Freedom of Information Act Office**

Phone Number: (202) 632-4803  
Fax Number: (202) 565-9733 / (202) 343-1422

### **Medical Opinion Office**

Phone Number: (202) 461-8072

## **Common Veterans Law Acronyms & Abbreviations**

- 38 CFR – Title 38 Code of Federal Regulations
- AO - Agent Orange
- BVA - Board of Veterans Appeals
- C-File- Claims File
- C&P - Compensation & Pension
- CAVC - Court of Appeals for Veterans Claims
- CUE - Clear and Unmistakable Error
- DD 214 – Certificate of Release or Discharge from Active Duty
- DEA – Dependents' Educational Assistance Program
- DIC - Dependency and Indemnity Compensation
- DRO - Decision Review Officer
- DVA or VA - Department of Veterans Affairs
- ED - Effective Date
- EED - Earlier Effective Date
- GAF - Global Assessment of Functioning
- NME - New and Material Evidence
- NOA - Notice of Appeal
- NOD - Notice of Disagreement
- PTSD - Post Traumatic Stress Disorder
- RD - Rating Decision
- VARO or RO – VA Regional Office
- SC - Service Connection
- SMC - Special Monthly Compensation
- SOC - Statement of the Case
- SSOC - Supplemental Statement of the Case
- TBI - Traumatic Brain Injury
- TDIU - Total Disability Due to Individual Unemployability
- VAMC - VA Medical Center
- VDM - Veterans Benefits Manual
- VSO - Veterans Service Organization

## **Department of Veterans Affairs Forms**

- **VA Form 21-22a, Appointment of Individual as Claimant’s Representative.....pg. 42**
- **VA Form 9, Appeal to Board of Veterans’ Appeals ..... pg. 44**
- **VA Form 21-8940, Veteran’s Application for Increased Compensation Based on Unemployability ..... pg. 49**
- **VA Form 21-4138, Statement in Support of Claim ..... pg. 51**
- **VA Form 21-0958, Information and Instructions for Completing Notice of Disagreement (NOD) .....pg. 53**
- **VA Form 21-256, Information and Instructions for Completing the Veteran’s Application for Compensation and/or Pension ..... pg. 57**
- **VA Form 21-526b, Veterans Supplemental Claim for Compensation ..... .pg. 67**



## **Department of Veterans Affairs Forms**

- ❖ **VA Form 21-22a**, Appointment of Individual as Claimant's Representative
- ❖ **VA Form 9**, Appeal to Board of Veterans' Appeals
- ❖ **VA Form 21-8940**, Veteran's Application for Increased Compensation Based on Unemployability
- ❖ **VA Form 21-4138**, Statement in Support of Claim
- ❖ **VA Form 21-0958**, Information and Instructions for Completing Notice of Disagreement (NOD)
- ❖ **VA Form 21-526**, Information and Instructions for Completing the Veteran's Application for Compensation and/or Pension
- ❖ **VA Form 21- 526b**, Veterans Supplemental Claim for Compensation
- ❖ **VA Form 21-4142**, Authorization and Consent to Release Information to the Department of Veterans Affairs (VA)



Department of Veterans Affairs

1. VA FILE NO(S) (Include prefix)

**APPOINTMENT OF INDIVIDUAL AS CLAIMANT'S REPRESENTATIVE**

**Note - If you would prefer to have a service organization assist you with your claim, you may use VA Form 21-22, "Appointment of Veterans Service Organization As Claimant's Representative."**

**PRIVACY ACT NOTICE:** VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records-VA, published in the Federal Register. Your obligation to respond is voluntary. However, failure to respond provide the requested information could impede the recognition of your representative and/or identification of disclosable records. Except for information protected by 38 U.S.C. 7332, your representative is not prohibited from redisclosing records. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**RESPONDENT BURDEN:** We need this information to recognize the individuals appointed by claimants to act on their behalf in the preparation, presentation, and prosecution of claims for VA benefits (38 U.S.C. 5902, 5903, and 5904) and for those individuals to accept appointment. We will also use the information to verify consent for disclosure of VA records to the appointed representative (38 U.S.C. 5701(b) and 7332) Title 38, United States Code, allows us to ask for this information. We estimate that claimants and individuals appointed for purposes of representation will each need an average of 5 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. A Valid OMB control number can be located on the OMB Internet Page at [www.whitehouse.gov/omb/library/OMB/INVA.EPA.html#VA](http://www.whitehouse.gov/omb/library/OMB/INVA.EPA.html#VA). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

2. NAME OF CLAIMANT (Veteran, guardian, beneficiary, dependent, or next of kin)	3. ADDRESS OF CLAIMANT (No. and street or rural route, city or P.O., State and ZIP Code)
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4. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN	5. SERVICE NUMBERS
--	--------------------

6. BRANCH OF SERVICE  
 ARMY     NAVY     AIR FORCE     MARINE CORPS     COAST GUARD     OTHER (Specify \_\_\_\_\_)

7A. NAME OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE

7B. INDIVIDUAL IS (check appropriate box)

ATTORNEY     AGENT     INDIVIDUAL PROVIDING REPRESENTATION UNDER SECTION 14.630     SERVICE ORGANIZATION REPRESENTATIVE (Specify organization below)

(\*See required statement below. Signatures are required in Items 7C and 7D)

**\*INDIVIDUALS PROVIDING REPRESENTATION UNDER SECTION 14.630**  
 (Skip to Item 8, if the box for "Individual Providing Representation Under Section 14.630" was not checked in Item 7B)

The appointment of the individual named in Item 7A (the representative) authorizes the individual to represent the claimant named in Item 2 for a particular claim pursuant to the provisions of 38 CFR 14.630. By our signatures below, we, the representative and the claimant, attest that no compensation will be charged or paid for the individual named in Item 7A.

7C. SIGNATURE OF REPRESENTATIVE NAMED IN ITEM 7A

7D. SIGNATURE OF CLAIMANT NAMED IN ITEM 2

8. ADDRESS OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE (No. and street or rural route, city or P.O., State, and ZIP code)

**9. AUTHORIZATION FOR REPRESENTATIVE'S ACCESS TO RECORDS PROTECTED BY SECTION 7332, TITLE 38, U.S.C.**

Unless I check the box below, I do not authorize VA to disclose to the individual named in Item 7A any records that may be in my file relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia.

I authorize the VA facility having custody of my VA claimant records to disclose to the individual named in Item 7A all treatment records relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia. Redisclosure of these records by my representative, other than to VA or the Court of Appeals for Veterans Claims, is not authorized without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 7A, either by explicit revocation or the appointment of another representative.

**10. LIMITATION OF CONSENT.** My consent in Item 9 for the disclosure of records relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia is limited as follows:

**11. AUTHORIZATION FOR REPRESENTATIVE TO ACT ON CLAIMANT'S BEHALF TO CHANGE CLAIMANT'S ADDRESS**

Unless I check the box below, I do not authorize the individual named in Item 7A to act on my behalf to change my address in my VA records.

I authorize the individual named in Item 7A to act on my behalf to change my address in my VA records. This authorization does not extend to any other individual with out my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 7A, either by explicit revocation or the appointment of another representative.

**CONDITIONS OF APPOINTMENT**

I, the claimant named in Item 2, hereby appoint the individual named in Item 7A as my representative to prepare, present, and prosecute my claims for any and all benefits from the Department of Veterans Affairs (VA) based on the service of the veteran named in Item 4. If the individual named in Item 7A is an accredited agent or attorney, the scope of representation provided before VA may be limited by the agent or attorney as indicated below in Item 15. If the individual indicated in Item 7A is providing representation under 14.630, such representation is limited to a particular claim only. I authorize VA to release any and all of my records (other than as provided in Items 9 and 10) to that individual appointed as my representative, and if the individual in Item 7A is an accredited agent or attorney, this authorization includes the following individually named administrative employees of my representative:

Signed and accepted subject to the foregoing conditions.

12. SIGNATURE OF CLAIMANT

13. DATE OF SIGNATURE

14. CLAIMANT'S RELATIONSHIP TO VETERAN  
*(If other than the veteran)*

**15. LIMITATIONS ON REPRESENTATION - AGENTS OR ATTORNEYS ONLY** *(Unless limited by an agent or attorney, this power of attorney revokes all previously existing powers of attorney)*

16. SIGNATURE OF REPRESENTATIVE

17. DATE OF SIGNATURE

**FEES:** Section 5904, Title 38, United States Code, contains provisions regarding fees that may be charged, allowed, or paid for services of agents or attorneys in connection with a proceeding before the Department of Veterans Affairs with respect to benefits under laws administered by the Department.



Department of Veterans Affairs

**APPEAL TO BOARD OF VETERANS' APPEALS**

**IMPORTANT:** Read the attached instructions before you fill out this form. VA also encourages you to get assistance from your representative in filling out this form.

1. NAME OF VETERAN (Last Name, First Name, Middle Initial)	2. CLAIM FILE NO. (Include prefix)	3. INSURANCE FILE NO., OR LOAN NO.
--	------------------------------------	------------------------------------

4. I AM THE:

VETERAN    
  VETERAN'S WIDOWER    
  VETERAN'S CHILD    
  VETERAN'S PARENT  
 OTHER (Specify)

5. TELEPHONE NUMBERS		6. MY ADDRESS IS: (Number & Street or Post Office Box, City, State & ZIP Code)
A. HOME (Include Area Code)	B. WORK (Include Area Code)	

7. IF I AM NOT THE VETERAN, MY NAME IS: (Last Name, First Name, Middle Initial)	
--	--

8. OPTIONAL BVA HEARING

**IMPORTANT:** Read the information about this block in paragraph 6 of the attached instructions. This block is used to request a Board of Veterans' Appeals hearing. DO NOT USE THIS FORM TO REQUEST A HEARING BEFORE VA REGIONAL OFFICE PERSONNEL. Check one (and only one) of the following boxes:

A.  I DO NOT WANT A BVA HEARING.  
 B.  I WANT A BVA HEARING BY LIVE VIDEOCONFERENCE.  
 C.  I WANT A BVA HEARING IN WASHINGTON, DC.  
 D.  I WANT A BVA HEARING AT A LOCAL VA OFFICE.\*

\*Due to travel requirements for BVA personnel, selecting Option D may result in a lengthier waiting period for the hearing than the other options. (This option is also not available at the Washington, DC, or Baltimore, MD, Regional Offices.)

9. THESE ARE THE ISSUES I WANT TO APPEAL TO THE BVA: (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

A.  I WANT TO APPEAL ALL OF THE ISSUES LISTED ON THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENTS OF THE CASE THAT MY LOCAL VA OFFICE SENT TO ME.  
 B.  I HAVE READ THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENT OF THE CASE I RECEIVED. I AM ONLY APPEALING THESE ISSUES:  
 (List below.)

10. HERE IS WHY I THINK THAT VA DECIDED MY CASE INCORRECTLY: (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

*(Continue on the back, or attach sheets of paper, if you need more space.)*

11. SIGNATURE OF PERSON MAKING THIS APPEAL	12. DATE (MM/DD/YYYY)	13. SIGNATURE OF APPOINTED REPRESENTATIVE, IF ANY (Not required if signed by appellant. See paragraph 6 of the instructions.)	14. DATE (MM/DD/YYYY)
--	--------------------------	--	--------------------------



*(Attach additional sheets, if necessary)*

We are required by law to give you the information in this box. Instructions for filling out the form follow the box.

**RESPONDENT BURDEN:** VA may not conduct or sponsor, and the respondent is not required to respond to, this collection of information unless it displays a valid Office of Management and Budget (OMB) Control Number. The information requested is approved under OMB Control Number (2900-0085). Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection, including suggestions for reducing this burden to: VA Clearance Officer (005R1B), 810 Vermont Ave., NW, Washington, DC 20420. **DO NOT** send requests for benefits to this address.

**PRIVACY ACT STATEMENT:** Our authority for asking for the information you give to us when you fill out this form is 38 U.S.C. 7105(d)(3), a Federal statute that sets out the requirement for you to file a formal appeal to complete your appeal on a VA benefits determination. You use this form to present your appeal to the Board of Veterans' Appeals (BVA). It is used by VA in processing your appeal and it is used by the BVA in deciding your appeal. Providing this information to VA is voluntary, but if you fail to furnish this information VA will close your appeal and you may lose your right to appeal the benefit determinations you told us you disagreed with. The Privacy Act of 1974 (5 U.S.C. 552a) and VA's confidentiality statute (38 U.S.C. 5701), as implemented by 38 C.F.R. 1.526(a) and 1.576(b), require individuals to provide written consent before documents or information can be disclosed to third parties not allowed to receive records or information under any other provision of law. However, the law permits VA to disclose the information you include on this form to people outside of VA in some circumstances. Information about that is given in notices about VA's "systems of records" that are periodically published in the *Federal Register* as required by the Privacy Act of 1974. Examples of situations in which the information included in this form might be released to individuals outside of VA include release to the United States Court of Appeals for Veterans Claims, if you later appeal the BVA's decision in your case to that court; disclosure to a medical expert outside of VA, should VA exercise its statutory authority under 38 U.S.C. 5109 or 7109, to ask for an expert medical opinion to help decide your case; disclosure to law enforcement personnel and security guards in order to alert them to the presence of a dangerous person; disclosure to law enforcement agencies should the information indicate that there has been a violation of law; disclosure to a congressional office in order to answer an inquiry from the congressional office made at your request; and disclosure to Federal government personnel who have the duty of inspecting VA's records to make sure that they are being properly maintained. See the *Federal Register* notices described above for further details.

## INSTRUCTIONS

**1. CONSIDER GETTING ASSISTANCE:** We have tried to give you the general information most people need to complete this form in these instructions, but the law about veterans' benefits can be complicated. If you have a representative, we encourage you to work with your representative in completing this form. If you do not have a representative, we urge you to consider getting one. Most people who appeal to the Board of Veterans' Appeals (BVA) do get a representative. Veterans' Service Organizations (VSOs) will represent you at no charge and most people (more than 80 percent) are represented by VSOs. Under certain circumstances, you may pay a lawyer or "agent" to represent you. (See the references in paragraph 9.) Your local VA office can provide you with information about VSOs who are willing to represent you and forms that you will need to complete to appoint either a VSO or an attorney to represent you. Your local bar association may be able to provide you with the names of attorneys who specialize in veterans' law. VA has an 800 number that you can call for assistance: 1-800-827-1000. There are also a few agents recognized by VA who can represent claimants.

**2. WHAT IS THIS FORM FOR?** You told your local VA office that you disagreed with some decision it made on your claim for VA benefits, called filing a "Notice of Disagreement." That office then mailed you a "Statement of the Case" (SOC) that told you why and how it came to the decision that it did. After you have read the SOC, you must decide if you want to go ahead and complete your appeal so that the BVA will review your case. If you do, you or your representative must fill out this form and file it with VA. "Filing" means delivering the completed form to VA in person or by mailing it to VA. Paragraph 4 tells you how much time you have to file this form and paragraph 7 tells you where you file it.

When we refer to "your local VA office" in these instructions, we mean the VA Regional Office that sent you the "Statement of the Case" or, if you have moved out of the area served by that office, the VA Regional Office that now has your VA records.

**3. DO I HAVE TO FILL OUT THIS FORM AND FILE IT?** Fill out this form and file it with VA *if* you want to complete your appeal. If you do not, VA will close your appeal without sending it to the BVA for a decision. If you decide that you no longer want to appeal after you have read the SOC, you don't have to do anything.

**4. HOW LONG DO I HAVE TO COMPLETE THIS FORM AND FILE IT?** Under current law, there are three different ways to calculate how much time you have to complete and file this form. The one that applies to you is the one that gives you the *most* time.

(a) You have one year from the day your local VA office mailed you the notice of the decision you are appealing.

(b) You have 60 days from the day that your local VA office mailed you the SOC.

(c) Your local VA office may have sent you an update to the SOC, called a "Supplemental Statement of the Case" (SSOC). If that SSOC was provided to you in response to evidence you or your representative submitted within the one-year period described in paragraph 4(a) of these instructions, above, and if you have not already filed this form, then you have at least 60 days from the time your local VA office mailed you the SSOC to file it even though the one-year period has already expired. See 38 C.F.R. 20.302(b)(2).

There is one special kind of case, called a "simultaneously contested claim," where you have 30 days to file this form instead of the longer time periods described above. A "simultaneously contested claim" is a case where two different people are asking for the

same kind of VA benefit and one will either lose, or get less, if the other wins. If you are not sure whether this special exception applies, ask your representative or call your local VA office.

If you have *any* questions about the filing deadline in your case, ask your representative or your local VA office. **Filing on time is very important. Failing to file on time could result in you losing your right to appeal.**

**5. WHAT IF I NEED MORE TIME?** If you need more time to complete this form and file it, write to your local VA office, explaining why you need more time. *You must file your request for more time with your local VA office before the normal time for filing this form runs out.* If you file by mail, VA will use the postmark date to decide whether you filed the form, or the request for more time to file it, on time.

**6. WHAT KIND OF INFORMATION DO I NEED TO INCLUDE WHEN I FILL OUT THE FORM?** While most of the form is easy to understand, we will go through the blocks where you might need some additional information.

**Block 3.** If your appeal involves an insurance claim or some issue related to a VA home loan, enter your VA insurance or VA loan number here. For most kinds of cases, you will leave this block blank.

**Blocks 4-7.** These blocks are for information about the person who is filing this appeal. If you are a representative filling out this form for the person filing the appeal, fill in the information about that person, not yourself. Block 7 can be left blank if the person filing the appeal is the veteran.

**Block 8.** It is very important for you to check one, *and only one*, of the boxes in Block 8. This lets us know whether or not you want to appear at a BVA hearing and, if so, where you want to appear. Please keep in mind that a BVA hearing is entirely optional, and it is not necessary for you to have a hearing for BVA to decide your appeal. *If you do not check any of the boxes, BVA will assume that you DO NOT want a BVA hearing and your case will be decided taking into consideration the arguments already made, including your explanation on this form as to why you think VA decided your case incorrectly.*

If you ask for a BVA hearing, you and your representative (if you have one) can tell us why you think the BVA should act favorably on your appeal (present argument). You can also tell us about the facts behind your claim and you can bring others (witnesses) to the hearing who have information to give the BVA about your case. At your option, you can submit more evidence at a hearing requested on this form. If you do ask for a BVA hearing, it can be very helpful to have a representative assist you at the hearing.

The purpose of a hearing is to receive argument and testimony relevant and material to the issue or issues in your case that are on appeal. Hearings conducted by the Board are nonadversarial in nature. Parties to a hearing are permitted to ask questions, including follow-up questions, but cross-examination is not allowed. While the types of questions that may be asked are not limited by the legal rules of evidence that typically apply in an adversarial trial setting, reasonable bounds of relevancy and materiality still must be maintained.

Here is specific information about each of the check boxes in Block 8:

**Box A:** Check Box A if you decide that you *do not* want a BVA hearing. It is *not* necessary for you to have a hearing for BVA to decide your appeal, and you will not be penalized if you choose this option. If you feel that you have already sent VA everything that the BVA will need to decide your case, including making all desired arguments in support of your appeal, then there is no need for a hearing to be held. In addition, a hearing is not needed if the only thing you would like to do is submit additional evidence in support of your appeal. Instead, you may submit such additional evidence, or at a minimum notify VA of its existence and request that it be obtained, without a hearing being held. *If you check this box, do not check any of the other boxes in Block 8.*

**Box B:** Check Box B if you want to appear at a live BVA videoconference hearing. This option allows you to have a hearing by way of videoconferencing where you will be at the local VA office and the Veterans Law Judge hearing your case will be at the BVA's offices in Washington, DC. Videoconferencing allows the Veterans Law Judge holding the hearing to see and hear you, your representative and witnesses (if any). You will also be able to see and hear the Veterans Law Judge. *Please note that a live videoconference hearing can often be scheduled more quickly than a BVA hearing where all participants (including the Veterans Law Judge) are physically present together at the local VA office.*

**Box C:** Check Box C if you want to appear for a hearing at the BVA's offices in Washington, DC. If you choose this option, please note that VA *cannot* pay any expenses that you (or your representative or witnesses) incur in connection with attending the hearing. Having your BVA hearing by live videoconference (Box B) is usually less expensive for you, because you will not incur expenses associated with travel to Washington, DC.

**Box D:** Check Box D if you want a BVA hearing at your local VA office. If you select this option, both you and the Veterans Law Judge assigned to hear your case will be physically present together at the local VA office. *Please note that because Veterans Law Judges conduct this type of hearing only on special trips, it often takes more time to schedule these hearings than a live videoconference hearing (Box B). You can check with your local VA office for an estimate of how long it may take before your case could be scheduled for a BVA hearing at that local VA office.*

**HEARINGS BEFORE VA REGIONAL OFFICE PERSONNEL:** A hearing before VA regional office personnel, instead of before a member of the BVA, is not a BVA hearing. You can request a hearing before VA regional office personnel by writing directly to the regional office. **DO NOT** use this form to request that kind of hearing. If you do, it will delay your appeal. You should also know that requesting a hearing before VA regional office personnel does not extend the time for filing this form.

**Block 9.** This is the block where you tell us exactly *what* you are appealing. You do this by identifying the "issues" you are appealing. Your local VA office has tried to accurately identify the issues and has listed them on the SOC and any SSOC it sent you. Save what you want to tell us about *why* you are appealing for the next block (Block 10).

If you think that your local VA office has correctly identified the issues you are appealing and, after reading the SOC and any SSOC you received, you still want to appeal its decisions on *all* those issues, check the first box in Block 9. *Do not check the second box if you check the first box.*

Check the second check box in Block 9 if you only want to continue your appeal on some of the issues listed on the SOC and any SSOC you received. List the specific issues you want to appeal in the space under the second box. While you should not use this form to file a new claim or to appeal new issues for the first time, you can also use this space to call the BVA's attention to issues, if any, you told your local VA office in your Notice of Disagreement you wanted to appeal that are not included in the SOC or a SSOC. If you want to file a new claim, or appeal new issues (file a new Notice of Disagreement), do that in separate correspondence.

**Block 10.** Use this block to tell us why you disagree with the decision made by your local VA office. Tie your arguments to the issues you identified in Block 9. Tell us what facts you think VA got wrong and/or how you think VA misapplied the law in your case. Try to be specific. If you are appealing a rating percentage your local VA office assigned for one or more of your service-connected disabilities, tell us *for each service-connected disability rating you have appealed* what rating would satisfy your appeal (The SOC, or SSOC, includes information about what disability percentages can be assigned for each disability under VA's "Rating Schedule.") You may want to refer to the specific items of evidence that you feel support your appeal, but you do not have to describe all of the evidence you have submitted. The BVA will have your complete file when it considers your case. You should not attach copies of things you have already sent to VA.

In completing this block, please also let us know if there is any additional evidence that you feel needs to be obtained to support your appeal. You may either submit this evidence along with this response, or at a minimum notify VA of its existence so that the evidence can be obtained on your behalf.

If you need more space to complete Block 10, you can continue it on the back of the form and/or you can attach sheets of paper to the form. If you want to complete this part of the form using a computer word-processor, you may do so. Just attach the sheets from your printer to the form and write "see attachment" in Block 10.

**Block 11.** This form can be signed and filed by *either* the person appealing the local VA decision, or by his or her representative. Sign the form in Block 11 if you are the person appealing, or if you are a guardian or other properly appointed fiduciary filing this appeal for someone else. In cases where an incompetent person has no fiduciary, or the fiduciary has not acted, that person's "next friend," such as a family member, can sign and file this form. If the representative is filing this form, this block can be left blank. Regardless of who signs the form, we encourage you to have your representative check it over before it is filed. Place the date you sign in Block 12.

**Block 13.** If you are a representative filing this form for the appellant, sign here. Otherwise, leave this block blank. If you are an accredited representative of a Veterans' Service Organization (VSO), also insert the name of the VSO in this block. Note that signing this form will not serve to appoint you as the appellant's representative. Contact your local VA office if you need information on appointment. Place the date you sign in Block 14.

**7. WHERE DO I FILE THE FORM ONCE I HAVE COMPLETED IT?** When you have completed the form, signed and dated it, send it to the VA office that has your records. Unless you have recently moved outside the area that it serves, this is the office whose address is at the top of the letter VA sent you with the SOC.

**8. OTHER SOURCES OF INFORMATION:** You can find a "plain language" booklet that describes the VA appeals process called "How Do I Appeal" on the Internet at: <http://www.va.gov/vbs/bva/pamphlet.htm>. The booklet may also be requested by writing to: Mail Processing Section (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420. You can also find the formal rules for appealing to the BVA in the BVA's Rules of Practice at title 38, Code of Federal Regulations, Part 20. A complete copy of the Code of Federal Regulations is available on the Internet at: <http://www.gpoaccess.gov/cfr/index.html>. A printed copy of the Code of Federal Regulations may also be available at your local law library. More general information about VA benefit programs and eligibility can be found on the Internet at: <http://www.va.gov>.

**9. SPECIAL NOTE FOR ATTORNEYS AND VA ACCREDITED AGENTS.** There are statutory and regulatory restrictions on the payment of your fees and expenses and requirements for filing copies of your fee agreement with your client with VA. See 38 U.S.C. 5904 and 38 C.F.R. 14.636-.637.

*NOTE: Please separate these instructions from the form before you file it with VA. We suggest that you keep these instructions with your other papers about your appeal for future reference.*



Department of Veterans Affairs

**VETERAN'S APPLICATION FOR INCREASED  
COMPENSATION BASED ON UNEMPLOYABILITY**

**NOTE:** This is a claim for compensation benefits based on unemployability. When you complete this form you are claiming total disability because of a service-connected disability(ies) which has/have prevented you from securing or following any substantially gainful occupation. Answer all questions fully and accurately.

**Social Security Benefits:** Individuals who have a disability and meet medical criteria may qualify for Social Security or Supplemental Security Income disability benefits. If you would like more information about Social Security benefits, contact your nearest Social Security Administration (SSA) office. You can locate the address of the nearest SSA office in your telephone book blue pages under "United States Government, Social Security Administration" or call 1-800-772-1213 (Hearing Impaired TDD line 1-800-325-0778.). You may also contact SSA by Internet at <http://www.ssa.gov/>.

1. VA FILE NUMBER	2. VETERAN'S SOCIAL SECURITY NUMBER	3. DATE OF BIRTH
4. NAME OF VETERAN (First, Middle, Last) (Type or Print)		5. ADDRESS OF CLAIMANT (No. and street or rural route, city or P.O., State and ZIP Code)

**SECTION I - DISABILITY AND MEDICAL TREATMENT**

6. WHAT SERVICE-CONNECTED DISABILITY PREVENTS YOU FROM SECURING OR FOLLOWING ANY SUBSTANTIALLY GAINFUL OCCUPATION?	7. HAVE YOU BEEN UNDER A DOCTOR'S CARE AND/OR HOSPITALIZED WITHIN THE PAST 12 MONTHS?	8. DATE(S) OF TREATMENT BY DOCTOR(S)
9. NAME AND ADDRESS OF DOCTOR(S)	10. NAME AND ADDRESS OF HOSPITAL	11. DATE(S) OF HOSPITALIZATION

**SECTION II - EMPLOYMENT STATEMENT**

12. DATE YOUR DISABILITY AFFECTED FULL-TIME EMPLOYMENT	13. DATE YOU LAST WORKED FULL-TIME	14. DATE YOU BECAME TOO DISABLED TO WORK
15A. WHAT IS THE MOST YOU EVER EARNED IN ONE YEAR? \$	15B. WHAT YEAR?	15C. OCCUPATION DURING THAT YEAR

**16. LIST ALL YOUR EMPLOYMENT INCLUDING SELF-EMPLOYMENT FOR THE LAST FIVE YEARS YOU WORKED**

A. NAME AND ADDRESS OF EMPLOYER	B. TYPE OF WORK	C. HOURS PER WEEK	D. DATES OF EMPLOYMENT		E. TIME LOST FROM ILLNESS	F. HIGHEST GROSS EARNINGS PER MONTH
			FROM	TO		

G. INDICATE YOUR TOTAL EARNED INCOME FOR THE PAST 12 MONTHS \$	H. IF PRESENTLY EMPLOYED, INDICATE YOUR CURRENT MONTHLY EARNED INCOME \$
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17. DID YOU LEAVE YOUR LAST JOB/SELF-EMPLOYMENT BECAUSE OF YOUR DISABILITY? <input type="checkbox"/> YES <input type="checkbox"/> NO (If "Yes," give the facts in Item 24)	18. DO YOU RECEIVE/EXPECT TO RECEIVE DISABILITY RETIREMENT BENEFITS? <input type="checkbox"/> YES <input type="checkbox"/> NO	19. DO YOU RECEIVE/EXPECT TO RECEIVE WORKERS COMPENSATION BENEFITS? <input type="checkbox"/> YES <input type="checkbox"/> NO
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20. HAVE YOU TRIED TO OBTAIN EMPLOYMENT SINCE YOU BECAME TOO DISABLED TO WORK?  
 YES  NO (If "Yes," complete Items A, B, and C)

A. NAME AND ADDRESS OF EMPLOYER	B. TYPE OF WORK	C. DATE APPLIED



**SECTION III - SCHOOLING AND OTHER TRAINING**

21. EDUCATION (Check highest year completed)

GRADE SCHOOL  1  2  3  4  5  6  7  8 HIGH SCHOOL  1  2  3  4 COLLEGE  1  2  3  4

22A. DID YOU HAVE ANY OTHER EDUCATION AND TRAINING BEFORE YOU WERE TOO DISABLED TO WORK?

YES  NO (If "Yes," complete Items 22B and 22C)

22B. TYPE OF EDUCATION OR TRAINING

22C. DATES OF TRAINING

BEGINNING COMPLETION

23A. HAVE YOU HAD ANY EDUCATION AND TRAINING SINCE YOU BECAME TOO DISABLED TO WORK?

YES  NO (If "Yes," complete Items 23B and 23C)

23B. TYPE OF EDUCATION OR TRAINING

23C. DATES OF TRAINING

BEGINNING COMPLETION

24. REMARKS

**SECTION IV - AUTHORIZATION, CERTIFICATION, AND SIGNATURE**

**AUTHORIZATION FOR RELEASE OF INFORMATION:** I authorize the person or entity, including but not limited to any organization, service provider, employer, or Government agency, to give the Department of Veterans Affairs any information about me except protected health information, and I waive any privilege which makes the information confidential.

**CERTIFICATION OF STATEMENTS:** I CERTIFY THAT as a result of my service-connected disabilities, I am unable to secure or follow any substantially gainful occupation and that the statements in this application are true and complete to the best of my knowledge and belief. I understand that these statements will be considered in determining my eligibility for VA benefits based on unemployability because of service-connected disability.

I UNDERSTAND THAT IF I AM GRANTED SERVICE-CONNECTED TOTAL DISABILITY BENEFITS BASED ON MY UNEMPLOYABILITY, I MUST IMMEDIATELY INFORM VA IF I RETURN TO WORK. I ALSO UNDERSTAND THAT TOTAL DISABILITY BENEFITS PAID TO ME AFTER I BEGIN WORK MAY BE CONSIDERED AN OVERPAYMENT REQUIRING REPAYMENT TO VA.

25. SIGNATURE OF CLAIMANT

26. DATE SIGNED

27. TELEPHONE NUMBER(S) (Include Area Code)

A. DAYTIME

B. NIGHTTIME

**WITNESS TO SIGNATURE OF CLAIMANT IF MADE BY "X" MARK.** NOTE: Signature made by mark must be witnessed by two persons to whom the person making the statement is personally known and the signature and address of such witnesses must be shown below.

28A. SIGNATURE OF WITNESS

28B. ADDRESS OF WITNESS

29A. SIGNATURE OF WITNESS

29B. ADDRESS OF WITNESS

**PENALTY:** The law provides severe penalties which include fine or imprisonment or both for the willful submission of any statement or evidence of a material fact, knowing it to be false or for the fraudulent acceptance of any payment to which you are not entitled.

**PRIVACY ACT NOTICE:** VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22, Compensation, Pension, Education and Rehabilitation Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. Giving us your SSN account information is mandatory. Applicants are required to provide their SSN under Title 38, U.S.C. 5101(c)(1). VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits provided under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**RESPONDENT BURDEN:** We need this information to determine eligibility for individual unemployment (38 U.S.C. 1163). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 45 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.whitehouse.gov/omb/library/OMBINV.html#VA](http://www.whitehouse.gov/omb/library/OMBINV.html#VA). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.





### STATEMENT IN SUPPORT OF CLAIM

**PRIVACY ACT INFORMATION:** The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**RESPONDENT BURDEN:** We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN <i>(Type or print)</i>	SOCIAL SECURITY NO.	VA FILE NO.
		C/CSS -

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.

SIGNATURE	DATE SIGNED	
ADDRESS	TELEPHONE NUMBERS <i>(Include Area Code)</i>	
	DAYTIME	EVENING

**PENALTY:** The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:





## **INFORMATION AND INSTRUCTIONS FOR COMPLETING NOTICE OF DISAGREEMENT (NOD)**

**IMPORTANT:** PLEASE READ THE INFORMATION BELOW CAREFULLY TO HELP YOU COMPLETE THIS FORM QUICKLY AND ACCURATELY. SOME PARTS OF THE FORM ALSO CONTAIN NOTES OR SPECIFIC INSTRUCTIONS FOR COMPLETING THAT PART.

THE USE OF THIS FORM IS NOT MANDATORY. HOWEVER, USING IT WILL HELP REDUCE DELAYS IN PROCESSING YOUR NOD. THIS FORM HAS SEVERAL KEY COMPONENTS, WHICH WHEN FILLED OUT COMPLETELY AND ACCURATELY, WILL DECREASE THE AMOUNT OF TIME IT TAKES TO PROCESS YOUR NOD.

### **FREQUENTLY ASKED QUESTIONS**

#### **For what do I use this standard NOD?**

Use this form to indicate to your Regional Office (RO) that you disagree with a decision you received regarding your claim for disability compensation. Examples of these decisions may include entitlement to service connection, percentage of evaluation assigned, and effective date among other things.

#### **Should I fill out this form?**

Only fill out this form if you disagree with a decision issued by your RO. This includes an initial decision, a decision for an increased rating, or any other decision you disagree with.

#### **Where can I get help?**

You can ask the Department of Veterans Affairs (VA) to help you fill out the form by contacting us. Before you contact us, please make sure you gather the necessary information and materials, and complete as much of the form as you can.

#### **What should I do when I have finished my NOD?**

You should provide your signature in the block provided at the bottom of the second page. Be sure to sign every form you fill out before you send it to us. If you don't sign the form, VA will return it for you to sign, and it will take longer to process.

Attach any materials that support and explain your NOD.

Mail or take your NOD to the RO that issued the decision or notification that you disagree with, which is the Agency of Original Jurisdiction (AOJ.)

#### **Do I need to keep a copy of this NOD form?**

It is important that you keep a copy of all completed forms and materials you give to VA.

### **SPECIFIC INSTRUCTIONS FOR THE NOD**

#### **Part I - Personal Information**

Please provide all personal contact information.

## SPECIFIC INSTRUCTIONS FOR THE NOD (Continued)

### Part II - Telephone Contact

#### **Why is VA asking to contact me by telephone?**

The purpose of the optional telephone contact is to help process your NOD quicker. If you indicate you wish to be contacted by telephone, VA may make up to two attempts to call you at the telephone number provided during the time slot you select. It is important to make sure you select a time period you will be available to speak with a Regional Office Representative by telephone.

### Part III - Specific Issues of Disagreement

#### **What date do I enter in the Notification/Decision Letter Date?**

You should enter the date stamped on the notification or decision letter you received that you disagree with in Item 14. Please do not enter today's date in this field. If you need help identifying the date of the notification or decision you disagree with, contact us.

#### **How do I complete this section?**

The purpose of this section is for you to individually identify each area of disagreement that you have with our decision notification letter. Please list **only** the issues or disabilities for which you disagree.

In the Specific Issue of Disagreement column in Item 15, please individually identify in separate boxes each of the issues you disagree with. For example, left knee condition, hearing loss, etc.

In the "Area of Disagreement" column, Item 15B, please check the area for which you disagree. For example, if you disagree with the effective date that VA assigned for a particular benefit, check the "Effective Date of Award" option. If VA granted a benefit, but you disagree with the evaluation that we assigned, check the "Evaluation of Disability" option. If you were claiming service connection for an injury or disability that you believe to be the result of your military service, and VA denied that claim, please check the "Service Connection" option. If you are disagreeing with our decision for reasons other than listed in the "Area of Disagreement" column, please check "Other" and specify your reason.

If you disagree with a disability evaluation that we have assigned and believe that the evidence justifies a specific evaluation, please list the percentage that you believe the evidence to warrant in the "Percentage of Evaluation Sought If Known" column, Item 15C, within Part III of the form. To assist, please refer to our decision notification letter where we indicate what the evidence must show for the evaluation we assigned as well as the next higher evaluation.

There is extra space provided for you to explain why you feel we incorrectly decided your claim, and to list any disagreements not covered by the form. Please utilize this space to briefly and clearly explain why you disagree with our decision.

**Privacy Act Notice:** VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58/VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**Respondent Burden:** We need this information to determine entitlement to benefits (38 U.S.C. 501). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 30 minutes to review the instructions, find the information, and complete the form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.



Department of Veterans Affairs

**NOTICE OF DISAGREEMENT**

A CLAIMANT OR HIS OR HER DULY APPOINTED REPRESENTATIVE MAY FILE NOTICE EXPRESSING THEIR DISSATISFACTION OR DISAGREEMENT WITH AN ADJUDICATIVE DETERMINATION BY THE AGENCY OF ORIGINAL JURISDICTION. A DESIRE TO CONTEST THE RESULT WILL CONSTITUTE A NOTICE OF DISAGREEMENT (NOD.) WHILE SPECIAL WORDING IS NOT REQUIRED, THE NOD MUST BE IN TERMS WHICH CAN BE REASONABLY CONSTRUED AS DISAGREEMENT WITH THAT DETERMINATION AND A DESIRE FOR APPELLATE REVIEW. (AUTHORITY: 38 U.S.C. 7105)

TO FILE A VALID NOD, THERE IS A TIME LIMIT OF ONE YEAR FROM THE DATE VA MAILED THE NOTIFICATION OF THE DECISION TO THE CLAIMANT. FOR CONTESTED CLAIMS INCLUDING CLAIMS OF APPORTIONMENT, THIS TIME LIMIT IS 60 DAYS FROM THE DATE VA MAILED THE NOTIFICATION OF THE DECISION TO THE CLAIMANT.

**(DO NOT WRITE IN THIS SPACE)  
 (VA DATE STAMP)**

**PART I - PERSONAL INFORMATION**

1A. VETERAN'S FIRST NAME		1B. MIDDLE NAME	1C. LAST NAME	
2. VA FILE NUMBER C/CSS -			3. VETERAN'S SOCIAL SECURITY NUMBER	

**CLAIMANT'S PERSONAL INFORMATION**

4A. CLAIMANT'S FIRST NAME		4B. MIDDLE NAME	4C. LAST NAME		
5. STREET ADDRESS		6. APT. NO.	7. CITY	8. STATE	9. ZIP CODE
10. DAYTIME TELEPHONE NUMBER	11. EVENING TELEPHONE NUMBER	12. EMAIL ADDRESS			

**PART II - TELEPHONE CONTACT**

13. WOULD YOU LIKE TO RECEIVE A TELEPHONE CALL OR EMAIL FROM A REPRESENTATIVE AT YOUR LOCAL REGIONAL OFFICE REGARDING YOUR NOD?

YES  NO *(If you answered "Yes," VA will make up to two attempts to call you between 8:00 a.m. and 4:30 p.m. local time at the telephone number and time period you select below. Please select up to two time periods you are available to receive a phone call.)*

8:00 a.m. - 10:00 a.m.     10:00 a.m. - 12:30 p.m.     12:30 p.m. - 2:00 p.m.     2:00 p.m. - 4:30 p.m.

Phone number I can be reached at the above checked time: \_\_\_\_\_

**PART III - SPECIFIC ISSUES OF DISAGREEMENT**

14. NOTIFICATION/DECISION LETTER DATE

15. PLEASE LIST EACH SPECIFIC ISSUE OF DISAGREEMENT AND NOTE THE AREA OF DISAGREEMENT. IF YOU DISAGREE ON THE EVALUATION OF A DISABILITY, SPECIFY PERCENTAGE EVALUATION SOUGHT, IF KNOWN. PLEASE LIST ONLY ONE DISABILITY IN EACH BOX. YOU MAY ATTACH ADDITIONAL SHEETS IF NECESSARY.

A. Specific Issue of Disagreement	B. Area of Disagreement	C. Percentage (%) Evaluation Sought <i>(If known)</i>
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other <i>(Please specify)</i>	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other <i>(Please specify)</i>	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other <i>(Please specify)</i>	

**PART III - SPECIFIC ISSUES OF DISAGREEMENT (Continued)**

A. Specific Issue of Disagreement	B. Area of Disagreement	C. Percentage (%) Evaluation Sought (If known)
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify)	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify)	

16A. IN THE SPACE BELOW, OR ON A SEPARATE PAGE, PLEASE EXPLAIN WHY YOU FEEL WE INCORRECTLY DECIDED YOUR CLAIM, AND LIST ANY DISAGREEMENT(S) NOT COVERED ABOVE:

*(This area is intentionally left blank for the claimant to provide an explanation of their disagreement.)*

16B. DID YOU ATTACH ADDITIONAL PAGES TO THIS NOD?

YES  NO (If so, how many?)

**PART IV - CERTIFICATION AND SIGNATURE**

I CERTIFY THAT THE STATEMENTS ON THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

17A. SIGNATURE

17B. DATE SIGNED

**PENALTY: THE LAW PROVIDES SEVERE PENALTIES WHICH INCLUDE A FINE, IMPRISONMENT, OR BOTH, FOR THE WILLFUL SUBMISSION OF ANY STATEMENT OR EVIDENCE OF A MATERIAL FACT, KNOWING IT TO BE FALSE.**



Department of  
Veterans Affairs

**INFORMATION AND INSTRUCTIONS FOR COMPLETING THE  
VETERAN'S APPLICATION FOR  
COMPENSATION AND/OR PENSION**

**IMPORTANT-** Please read the information below carefully to help you complete this form more quickly and accurately. Some parts of the form also contain notes or specific instructions for completing that part.

**Frequently Asked Questions**

**For what do I use VA Form 21-526?**

Use VA Form 21-526 to apply for compensation and/or pension benefits.

**Should I apply for compensation or pension benefits?**

You should apply for **compensation** benefits if:

- You currently have a disability that is the result of an injury, disease, or an event in military service.

You should apply for **pension** benefits if *all* of the following are true:

- You are age 65 or older or are permanently and totally disabled.
- You served on active duty with at least one day during a period of war.
- Your income and net worth does not exceed certain limits. Visit our website, <http://www.vba.va.gov/bln/21/rates> for the maximum yearly income we allow.

**Note:** Attach current medical evidence showing that you are permanently and totally disabled.

**IMPORTANT:** If you are a veteran who is age 65 or older, or determined to be disabled by the Social Security Administration, you **DO NOT** have to submit medical evidence with your application unless you are filing for special monthly pension. Special monthly pension is an allowance that may be paid to individuals who, due to mental or physical disability, require the assistance of another person to perform the basic activities of daily living, or their ability to leave home is very limited.

**May I apply electronically?**

To file a claim for VA compensation or pension electronically, please complete and submit VA Form 21-526, Veteran's Application for Compensation and/or Pension, using VONAPP. The VONAPP (Veterans On Line Application) website is an official U.S. Department of Veterans Affairs (VA) website that enables service members, veterans and their beneficiaries, and other designated individuals to apply for benefits using the Internet. You can apply online at our website, <http://vabenefits.vba.va.gov/vonapp/main.asp>.

**What parts of the form should I complete?**

You should complete only the parts related to the benefit for which you are applying:

- If you are applying for compensation **ONLY**, skip parts VII, VIII, IX, X.
- If you are applying for pension, complete the **ENTIRE** form.
- If you need more space to answer a question or have a comment about a specific item on this form, please place it in Part XIII, Item 45, "Remarks." Please identify your answer or comment by the part and item number.

#### Where can I get help:

You can ask VA to help you fill out the form by contacting a regional office or call center. Before you contact us, make sure you gather the necessary materials and complete as much of the form as you can. You can contact VA in the following ways:

- **By internet:** <https://iris.va.gov>
- **In person:** You can locate the address of the closest regional office on the website <http://www.va.gov/directory> or in your telephone book blue pages under "United States Government, Veterans"
- **By telephone:** Please call one of the following telephone numbers:  
1-800-827-1000  
1-800-829-4833 (Hearing Impaired TDD line)  
1-412-395-6272 (If living outside the U.S.)

You can also contact a county or national veterans' service organization (VSO) representative to help you with your claim. If you want to use a representative to help you, consult your local telephone book to contact a particular VSO or contact the closest VA office. Depending on the type of representative you want to designate, we will send you one of the following forms:

- VA Form 21-22, Appointment of Veterans Service Organization as Claimant's Representative
- VA Form 21-22A, Appointment of Individual as Claimant's Representative

#### What should I do when I have finished my application?

- You should provide your signature in Part XII, Item 42A. Be sure to sign every form you fill out before you send it to us. If you don't sign the form, VA will return it for you to sign, and it will take longer for us to process.
- Attach any materials that support and explain your claim.
- Mail or take your application to the closest VA regional office. VA regional office addresses are available on the internet at <http://www.va.gov/directory>

#### Do I need to keep a copy of my application?

It is important that you keep a copy of all completed forms and materials you give to VA.

#### Social Security and Supplemental Security Income Benefits

Social Security and Supplemental Security Income are two Federal programs that help people with disabilities. While these programs are different in many ways, the Social Security Administration (SSA) administers both programs. If you think you have a disabling condition, you may qualify for benefits under one or both of these programs and should contact Social Security.

#### How can I contact SSA if I have questions?

You can find answers to most questions and file a claim online at [www.socialsecurity.gov](http://www.socialsecurity.gov). Specific information is available for active duty military, veterans, and their families at [www.socialsecurity.gov/woundedwarriors](http://www.socialsecurity.gov/woundedwarriors).

You can also contact SSA in the following ways:

- **By phone:** (Monday-Friday, 7 a.m. - 7 p.m. EST) at one of the following toll-free numbers:  
1-800-772-1213  
1-800-325-0778 (TTY if you are deaf or hard of hearing)
- **By mail or in person:** You can locate the address of the Social Security office nearest to you in your telephone book blue pages under "United States Government, Social Security Administration".

## SPECIFIC INSTRUCTIONS FOR VA FORM 21-526

### Part II - Nature and History of Service-Related Disability(ies)

#### What disabilities should I list?

List the disease(s) or medical condition(s) that form the basis of your claim for service connected compensation. Be as specific as you can. Indicate the approximate date the disability began and the place of treatment.

#### Do I have to include any records with this claim form?

If you have records that support your claim, you should attach them to this form. VA will help you obtain records by requesting them from the person, company, or agency that has them. On this form you must tell us the name and address of the person, company or agency that has these records, the approximate time frame covered by them, and the condition for which you were treated. If you received treatment from a non-VA health care provider complete the attached VA Form 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs (VA). We will use this form to request these records. Due to Privacy Act regulations, please use only one source of information (Item 7) on each form, as some medical offices will not accept the forms otherwise, which may cause a delay in processing your claim. Additional 21-4142 forms can be obtained from the VA forms website at [www.va.gov/vaforms](http://www.va.gov/vaforms).

### Part III - Active Duty Service Information

#### Do I need to include my active duty service information?

Please provide the information for each period of active duty (provide a copy of your DD214 or other separation papers for all periods of active duty service).

### Part IV - Reserve and National Guard Service Information

#### What If I have Reserve or National Guard Service?

This section tells us if you were a member of the Reserve or National Guard. Complete information for each period of Reserve and National Guard service. Provide a copy of your DD214 or other separation papers for all periods of active service.

### Part V - Military Retired/Severance Pay

#### What If I have received or will receive military pay?

This section asks about your military severance or separation pay, the type, and the amount. If you currently receive military retired pay, we may reduce your retired pay by the amount of any compensation that we award. It is to your advantage because VA compensation is not taxable while retired pay is taxable. However, if you wish to receive military retired pay rather than VA compensation, you must check the box in Item 25. Some veterans receive various readjustment, separation, or severance pay from service departments which may be recouped in full or in part from VA benefit payments.

### Part VI - Marital and Dependency Information

#### Who can I count as a dependent spouse?

A spouse is a person of the opposite sex who is married to the veteran (authority: 38 U.S.C. subsection 101(31)). The marriage must be valid under the law of the place where the parties resided at the time of marriage, or the law of the place where the parties resided when the right to benefits occurred.

**Note:** It is important that you provide your marital history and that of your spouse.

#### Who can be recognized as a dependent child?

VA recognizes the veteran's biological child, adopted child, and stepchild. However, the child must be unmarried and:

- under the age of 18, or
- at least 18 but under 23 and pursuing an approved course of education, or
- permanently incapable of self support before reaching the age of 18.

## SPECIFIC INSTRUCTIONS FOR VA FORM 21-526 (Continued)

### Part VII - Non-Service Connected Pension

This section asks you to provide the disabilities that prevent you from working. We also ask you to tell us if you require the regular assistance of another person, if you are housebound, if you are in a nursing home, if you are in receipt of Social Security, or if you have applied for Medicaid.

### Part VIII - Income Information

This section asks you to provide specific information about the monthly income you and your dependants receive from all sources. Report the gross amount you receive monthly before deductions are taken out for taxes, health care, insurance, etc. Do **not** leave any blank boxes in this section! Complete each box with either a dollar figure, "0", or "none." If you expect to receive payment, but you don't know how much it will be, write "Unknown" in the space. If you are not sure about a particular type of income, report it and provide a full explanation of its source. If you are receiving monthly benefits from any source and have a copy of your most recent award letter, please include a copy of the letter with your application.

### Part IX - Net Worth

This section asks you to provide specific information about your net worth and that of your dependents. **Do not leave any blank boxes in this section!** Complete each box with either a dollar figure, "0", or "none."

Net worth is the market value of all interest and rights in any kind of property, after subtracting any mortgages and other claims against the property. List all assets except the house in which you live, any reasonable area of land on which it sits, and those items you use everyday, such as your vehicle, clothing and furniture.

Clearly indicate if you and your spouse jointly share assets (such as money in a joint checking account). Report the value of farms or buildings that you or a dependent owns as "real property."

You must disclose all financial transactions that involve a transfer of assets, even if the transaction occurred prior to the date of your application for VA pension. A gift of property or a sale below the property's value to a relative residing in the same household does not reduce net worth. Likewise, a gift of property to someone other than a relative residing in your household does not reduce net worth unless it is clear that you have relinquished all rights of ownership, including the right to control the property.

### Part X - Medical, Legal or Other Expenses

When determining your eligibility for pension, we may be able to deduct unreimbursed medical expenses from your income for the year in which the expenses are paid. Report the amount of unreimbursed medical expenses, including the Medicare deductions you paid (out-of-pocket) for yourself or relatives you are under an obligation to support. Also, show medical, legal, or other expenses you paid because of a disability for which civilian disability benefits have been awarded. **Do not** report any expenses you did not pay or expenses for which you were or will be reimbursed.

**PRIVACY ACT INFORMATION:** The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is voluntary; however, no allowance of compensation or pension may be granted unless this form is completed fully as required by law. Giving us you and your dependents' Social Security numbers is mandatory. Applicants are required to provide their SSN and the SSN of any dependents for whom benefits are claimed under Title 38 USC 5101 (c)(1). The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. Information submitted is subject to verification through computer matching programs with other Federal or state agencies. Income and employment information furnished by you will be compared with information obtained by VA from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(1)(7)(D) of the Internal Revenue Code of 1986.

**RESPONDENT BURDEN:** We need this information to determine your eligibility for compensation and/or pension (38 U.S.C. 5101). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 1 hour to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.whitehouse.gov/omb/library/OMBINV.VA.EPA.html#VA](http://www.whitehouse.gov/omb/library/OMBINV.VA.EPA.html#VA). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.





Department of Veterans Affairs

VETERAN'S APPLICATION FOR COMPENSATION AND/OR PENSION

IMPORTANT - Read information and instructions carefully before completing the form. Type, print, or write plainly.

(DO NOT WRITE IN THIS SPACE)  
(VA DATE STAMP)

**PART I - VETERAN'S INFORMATION**

1. FOR WHAT BENEFIT ARE YOU APPLYING?

COMPENSATION  PENSION  BOTH COMPENSATION AND PENSION

2. HAVE YOU PREVIOUSLY APPLIED FOR ANY VA BENEFIT(S)? (Check applicable box)

PENSION  COMPENSATION  OTHER (Specify)

3. FIRST, MIDDLE, LAST NAME OF VETERAN

4A. VETERAN'S SOCIAL SECURITY NO.

4B. VA FILE NUMBER (If applicable)

4C. SPOUSE'S SOCIAL SECURITY NO.

4D. IF YOU SERVED UNDER ANOTHER NAME, GIVE NAME AND PERIOD DURING WHICH YOU SERVED AND SERVICE NO.

5. MAILING ADDRESS (Number and street or rural route, city or P.O., State and ZIP Code)

6. TELEPHONE NUMBER(S) (Include Area Code)

7. E - MAIL ADDRESS (If applicable)

A. DAYTIME

B. EVENING

C. CELL

8A. DATE OF BIRTH (Month, day, year)

8B. PLACE OF BIRTH

9. SEX

MALE  FEMALE

10A. HAVE YOU EVER FILED A CLAIM FOR COMPENSATION FROM THE OFFICE OF WORKERS' COMPENSATION PROGRAMS? (Formerly the U.S. Bureau of Employees Compensation)

YES  NO (If "Yes," complete Items 10B & 10C)

10B. WHEN WAS THE CLAIM FILED? (Mo., day, yr.)

10C. FOR WHAT DISABILITY ARE YOU RECEIVING BENEFITS?

**PART II - NATURE AND HISTORY OF SERVICE-RELATED DISABILITY(IES) - If you need more space please use Item 45, "Remarks"**

11. PLEASE PROVIDE NATURE OF SICKNESS, DISEASE, OR INJURIES FOR WHICH THIS CLAIM IS MADE; DATE EACH BEGAN; AND PLACE OF TREATMENT

A. LIST DISABILITY(IES)	B. DATE BEGAN	C. PLACE OF TREATMENT

12A. ARE YOU NOW OR HAVE YOU RECEIVED TREATMENT OR DOMICILIARY CARE AT A VA MEDICAL FACILITY?

YES  NO (If "Yes," complete Items 12B & 12C)

12B. DATES OF TREATMENT/CARE

Month Day Year


12C. NAME AND ADDRESS OF VA MEDICAL FACILITY (If you need more space use Item 45, "Remarks")

13A. HAVE YOU EVER BEEN A PRISONER OF WAR?

YES  NO (If "Yes," complete Items 13B and 13C)

13B. NAME OF COUNTRY

13C. DATES OF CONFINEMENT

FROM

TO

14. ARE YOU CLAIMING A DISABILITY RELATED TO AGENT ORANGE OR OTHER HERBICIDE EXPOSURE? (If "Yes," list disability(ies) below)

YES  NO

15. ARE YOU CLAIMING A DISABILITY RELATED TO ASBESTOS EXPOSURE? (If "Yes," list disability(ies) below)

YES  NO

16. ARE YOU CLAIMING A DISABILITY RELATED TO MUSTARD GAS EXPOSURE? (If "Yes," list disability(ies) below)

YES  NO

17. ARE YOU CLAIMING A DISABILITY RELATED TO IONIZING RADIATION EXPOSURE? (If "Yes," list disability(ies) below)

YES  NO

18. ARE YOU CLAIMING A DISABILITY RELATED TO AN ENVIRONMENTAL HAZARD EXPOSURE DURING THE GULF WAR? (If "Yes," list disability(ies) below)

YES  NO

**YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.**

**PART III - ACTIVE DUTY SERVICE INFORMATION**

NOTE: Please complete the information for each period of active duty. Attach DD214 or other separation papers for all periods of active duty. If you do not have your DD214 form or other separation papers, check the box.

19A. ENTERED INTO SERVICE		19B. SERVICE NUMBER	19C. SEPARATED FROM SERVICE		19D. BRANCH OF SERVICE	19E. GRADE, RANK OR RATING, ORGANIZATION
DATE	PLACE		DATE	PLACE		

**PART IV - RESERVE AND NATIONAL GUARD SERVICE INFORMATION**

NOTE: Enter complete information for each period of Reserves and National Guard service. Attach any separation papers you have.

20A. ENTERED INTO SERVICE		20B. SERVICE NUMBER	20C. SEPARATED FROM SERVICE		20D. SERVICE STATUS <i>(Reserve, National Guard)</i>	20E. GRADE, RANK OR RATING, ORGANIZATION
DATE	PLACE		DATE	PLACE		

21. IF DISABILITY OCCURRED DURING ACTIVE OR INACTIVE DUTY FOR TRAINING, GIVE BRANCH OF SERVICE AND DATE OF OCCURRENCE	22A. ARE YOU NOW A MEMBER OF THE RESERVES OR NATIONAL GUARD? IF SO, GIVE THE BRANCH OF SERVICE	22B. RESERVE STATUS
	<input type="checkbox"/> YES <input type="checkbox"/> NO BRANCH _____	<input type="checkbox"/> ACTIVE <input type="checkbox"/> RESERVE OBLIGATION <input type="checkbox"/> INACTIVE

22C. NAME, ADDRESS AND PHONE NO. OF RESERVE OR NATIONAL GUARD UNIT *(If additional space is needed, use Item 45 "Remarks")*

**PART V - MILITARY RETIRED/SEVERANCE PAY**

IMPORTANT - Unless you check the box in Item 25 below, you are telling us that you are choosing to receive VA compensation instead of military retired pay, if it is determined you are entitled to both benefits. If you are awarded military retired pay prior to compensation, we will reduce your retired pay by the amount of any compensation that you are awarded. VA will notify the Military Retired Pay Center of all benefit changes. If you receive both military retired pay and VA compensation, some of the amount you receive may be recouped by VA, or, in the case of Voluntary Separation Incentive (VSI), by the Department of Defense.

23A. ARE YOU RECEIVING MILITARY RETIRED PAY? <i>(If "Yes," complete Items 23C &amp; 23D)</i>	23B. WILL YOU RECEIVE MILITARY RETIRED PAY IN THE FUTURE? <i>(If "Yes," explain, i.e. Future Reserve/National Guard Retirement, Pending MEB/PEB)</i>	23C. BRANCH OF SERVICE	23D. MONTHLY AMOUNT
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO		\$

24. RETIRED STATUS	25. NO, I DO NOT WANT VA COMPENSATION IN LIEU OF MILITARY RETIRED PAY
<input type="checkbox"/> RETIRED <input type="checkbox"/> TEMPORARY DISABILITY RETIRED LIST <input type="checkbox"/> DISABLED RETIRED LIST	<input type="checkbox"/> <i>(Check box, if applicable)</i>

26. HAVE YOU EVER APPLIED FOR OR RECEIVED DISABILITY SEVERANCE/SEPARATION PAY, OR ANY OTHER LUMP SUM PAYMENT FROM THE ARMED FORCES? *(If "Yes," list type, amount, date it was received, and the branch of service below)*

YES  NO

**PART VI - MARITAL AND DEPENDENCY INFORMATION**

27A. MARITAL STATUS <i>(If married, complete Items 27B thru 29D)</i>	27B. SPOUSES'S BIRTHDATE <i>(Mo., day, yr.)</i>
<input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> DIVORCED <input type="checkbox"/> NEVER MARRIED <i>(If never married, skip to Item 30)</i>	

27C. NUMBER OF TIMES YOU HAVE BEEN MARRIED <i>(To include current marriage)</i>	27D. NUMBER OF TIMES YOUR PRESENT SPOUSE HAS BEEN MARRIED <i>(To include current marriage)</i>	27E. IS YOUR SPOUSE ALSO A VETERAN?	27F. SPOUSE'S VA FILE NUMBER <i>(If any)</i>
		<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "Yes," complete Item 27F)</i>	C-

27G. DO YOU LIVE TOGETHER?	27H. REASON FOR SEPARATION <i>(For example, marital problems, job requirements, health, etc.)</i>	27I. PRESENT ADDRESS OF SPOUSE
<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "No," complete Items 27H thru 27J)</i>		

27J. AMOUNT YOU CONTRIBUTE TO YOUR SPOUSE'S MONTHLY SUPPORT	27K. HOW WERE YOU MARRIED?
\$	<input type="checkbox"/> CLERGYMAN OR AUTHORIZED PUBLIC OFFICIAL <input type="checkbox"/> TRIBAL <input type="checkbox"/> OTHER <i>(Explain)</i> <input type="checkbox"/> COMMON-LAW <input type="checkbox"/> PROXY

**YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.**

**PART VI - MARITAL AND DEPENDENCY INFORMATION - CONTINUED** (If you need additional space, use Item 45 "Remarks")

FURNISH THE FOLLOWING INFORMATION ABOUT EACH OF YOUR MARRIAGES (IF NOT APPLICABLE, WRITE "N/A")

28A. DATE AND PLACE OF MARRIAGE		28B. TO WHOM MARRIED	28C. TERMINATED (Death, Divorce)	28D. DATE AND PLACE TERMINATED	
MONTH, YEAR	CITY, STATE			MONTH, YEAR	CITY, STATE

FURNISH THE FOLLOWING INFORMATION ABOUT EACH PREVIOUS MARRIAGE OF YOUR PRESENT SPOUSE (IF NOT APPLICABLE, WRITE "N/A")

29A. DATE AND PLACE OF MARRIAGE		29B. TO WHOM MARRIED	29C. TERMINATED (Death, Divorce)	29D. DATE AND PLACE TERMINATED	
MONTH, YEAR	CITY, STATE			MONTH, YEAR	CITY, STATE

**DEPENDENCY - Dependent Children Information** (If you need additional space, use Item 45 "Remarks")

FURNISH THE FOLLOWING INFORMATION FOR EACH OF YOUR DEPENDENT CHILDREN

30A. NAME OF CHILD (First, middle initial, last)	30B. DATE & PLACE OF BIRTH (City, state or country)	30C. SOCIAL SECURITY NUMBER	30D. CHECK EACH APPLICABLE CATEGORY					
			BIOLOGICAL	ADOPTED	STEPCHILD	18-23 YRS. OLD AND IN SCHOOL	SERIOUSLY DISABLED BEFORE AGE 18	CHILD PREVIOUSLY MARRIED
	_____ (Month, day, year) Place:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	_____ (Month, day, year) Place:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	_____ (Month, day, year) Place:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FURNISH THE FOLLOWING INFORMATION FOR EACH OF YOUR DEPENDENT CHILDREN WHO DO NOT LIVE WITH YOU

31A. NAME(S) OF ANY CHILD(REN) NOT IN YOUR CUSTODY	31B. NAME AND ADDRESS OF PERSON HAVING CUSTODY	31C. MONTHLY AMOUNT YOU CONTRIBUTE TO CHILD'S SUPPORT
		\$
		\$

**PART VII - NON-SERVICE CONNECTED PENSION** (If you need additional space use Item 45 "Remarks")

**NOTE:** You do not have to submit medical evidence or list disabilities if you are age 65 or older, unless you are housebound, or require the regular assistance of another person.

32. WHAT DISABILITIES PREVENT YOU FROM WORKING? (List below)

33. DO YOU NEED THE REGULAR ASSISTANCE OF ANOTHER PERSON OR ARE YOU GENERALLY CONFINED TO YOUR IMMEDIATE PREMISES?

YES  NO

**NURSING HOME INFORMATION**

**NOTE:** You may submit a statement by an official of the nursing home that tells us that you are a patient in the nursing home because of a physical or mental disability. The statement should include the monthly charge you are paying out-of-pocket for your care.

34A. ARE YOU NOW IN A NURSING HOME? <input type="checkbox"/> YES <input type="checkbox"/> NO (If "YES," complete Items 34B thru 34D)	34B. NAME AND COMPLETE MAILING ADDRESS OF THE FACILITY	34C. HAVE YOU APPLIED FOR MEDICAID? <input type="checkbox"/> YES <input type="checkbox"/> NO
34D. DOES MEDICAID COVER ALL OR PART OF YOUR NURSING HOME COSTS OR HAVE YOU APPLIED AND NOT RECEIVED A DECISION? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> APPLIED - NOT RECEIVED DECISION	34E. ARE YOU RECEIVING SUPPLEMENTAL SOCIAL SECURITY INCOME (SSI) OR HAVE YOU APPLIED FOR SSI BUT NO DECISION HAS BEEN MADE? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> APPLIED - NOT RECEIVED DECISION	

**YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.**

**PART VIII - INCOME INFORMATION** *(Provide the income you received from all sources)*

**NOTE:** Report the total income before deductions for taxes, insurance, etc. If you do not receive any payments from one of the sources that we list, write "0" or "None" in the space. If you are receiving monthly benefits, give us a copy of your most recent award letter. This will help us determine the amount of benefits you should be paid. Payments from any source will be counted, unless the law says that they don't need to be counted.

**MONTHLY INCOME - Provide the income that you and your dependents receive every month. For items 35A -35F, if none, write "0" or "NONE." Do not leave blank spaces.**

ITEM NO.	SOURCES OF RECURRING MONTHLY INCOME	VETERAN	SPOUSE	CHILD(REN) <i>(Provide the first, middle initial, and last name)</i>		
				NAME	NAME	NAME
35A.	Social Security					
35B.	U.S. Civil Service					
35C.	U.S. Railroad Retirement					
35D.	Military Retired Pay					
35E.	Black Lung Benefits					
35F.	Other <i>(Interest, dividends, or one-time payments)</i>					
36A. WILL YOU RECEIVE ANY INCOME FROM RENTAL PROPERTY OR FROM THE OPERATION OF A BUSINESS WITHIN 12 MONTHS OF THE DAY YOU SIGN THIS FORM?  <input type="checkbox"/> YES <input type="checkbox"/> NO		36B. WILL YOU RECEIVE ANY INCOME FROM THE OPERATION OF A FARM WITHIN 12 MONTHS OF THE DAY YOU SIGN THIS FORM?  <input type="checkbox"/> YES <input type="checkbox"/> NO		36C. DO YOU THINK YOUR INCOME WILL CHANGE IN THE NEXT 12 MONTHS? <i>(If "Yes," explain below)</i>  <input type="checkbox"/> YES <input type="checkbox"/> NO  _____		

**PART IX - NET WORTH** *(Provide specific information about the net worth of you and your dependents)*

**NET WORTH** is the market value of all interest and rights in any kind of property after subtracting any mortgages or other claims against the property. However, net worth does not include the house you live in or a reasonable area of land it sits on. Net worth also does not include the value of personal items such as your vehicle, clothing, and furniture.

**NOTE: For items 37A-37F provide amounts. If none, write "0" OR "NONE." Do not leave blank spaces.**

ITEM NO.	SOURCE	VETERAN	SPOUSE	CHILD(REN) <i>(Provide the first, middle initial, and last name)</i>		
				NAME	NAME	NAME
37A.	Cash, non-interest bearing bank accounts					
37B.	Interest bearing bank accounts, certificates of deposit <i>(CDs)</i>					
37C.	Retirement accounts <i>(IRAs, Keogh Plans, etc.)</i>					
37D.	Stocks, bonds, and mutual funds					
37E.	Value of business assets					
37F.	Real property <i>(not your home)</i>					

**YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.**

**PART X - MEDICAL, LEGAL, OR OTHER EXPENSES**

**IMPORTANT** - Complete items 38A through 38E only if you are applying for nonservice connected pension.

**MEDICAL, LEGAL OR OTHER EXPENSES** - Family medical expenses you actually paid (out-of-pocket) may be deducted from your income. Show the amount of unreimbursed medical expenses you paid for dependents you are under an obligation to support. Also, show medical, legal, or other expenses you paid because of a disability for which civilian disability benefits have been awarded. When determining your income, we may be able to increase benefits for the year in which the expenses are paid. Do not include any expenses for which you were reimbursed. Be sure to include the Medicare deduction. If more space is needed, you may use Item 45, "Remarks" or attach a separate sheet.

38A. AMOUNT YOU PAID	38B. DATE PAID <i>(Month, year)</i>	38C. PURPOSE <i>(Doctor's fees, hospital charges, attorney fees, etc.)</i>	38D. PAID TO <i>(Name of doctor, hospital, pharmacy, attorney, etc.)</i>	38E. PERSON FOR WHOM EXPENSE PAID <i>(Self, spouse, child)</i>

**PART XI - DIRECT DEPOSIT**

Generally, all Federal payments are required to be made by electronic funds transfer (EFT), also called direct deposit. Please attach a voided personal check or deposit slip or provide the information requested below in Items 39, 40, and 41 to enroll in direct deposit. If you do not have a bank account you can receive a waiver from direct deposit, by checking the box below in Item 39. You can also request a waiver if you have other circumstances that you feel would cause you a hardship to be enrolled in direct deposit. You can write to: Department of Veterans Affairs, 125 S. Main Street Suite B, Muskogee, OK 74401-7004, and give us a brief description of why you do not wish to participate in direct deposit.

39. ACCOUNT NUMBER *(Please check the appropriate box and provide the account number, if applicable)*

- CHECKING \_\_\_\_\_  
*(Account Number)*
  
- SAVINGS \_\_\_\_\_  
*(Account Number)*

I certify that I do not have an account with a financial institution or certified payment agent

40. NAME OF FINANCIAL INSTITUTION *(Please provide the name of the bank where you want your direct deposit to go)*

41. ROUTING OR TRANSIT NUMBER *(The first nine numbers located at the bottom left of your check or savings deposit slip)*

**YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.**

**PART XII - CERTIFICATION, AUTHORIZATION, AND SIGNATURE(S)**

I certify that the statements in this document are true and complete to the best of my knowledge and belief. I authorize any person or entity, including but not limited to any organization, service provider, employer or government agency, to give the Department of Veterans Affairs any information about me except protected health information, and I waive any privilege which makes the information confidential.

**IMPORTANT** - If you sign with an "X", then you must have 2 people witness your signature. They must then print their names and addresses and sign the form.

42A. VETERAN'S SIGNATURE <i>(Do not print) (Please sign in ink)</i>	42B. VETERAN'S PRINTED NAME	42C. DATE SIGNED
43A. SIGNATURE OF WITNESS <i>(Do not print)</i>	43B. PRINTED NAME AND ADDRESS OF WITNESS	
44A. SIGNATURE OF WITNESS <i>(Do not print)</i>	44B. PRINTED NAME AND ADDRESS OF WITNESS	

**PART XIII - REMARKS** *(Use this space for any additional statements that you would like to make concerning your application for Compensation and/or Pension)*

45. REMARKS *(If you need more space you may attach a separate sheet of paper)*

**PENALTY** - The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false, or for the fraudulent acceptance of any payment to which you are not entitled.

**YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON THIS PAGE.**



Department of Veterans Affairs

VA DATE STAMP  
DO NOT WRITE IN THIS SPACE

**VETERAN'S SUPPLEMENTAL CLAIM FOR COMPENSATION**

IMPORTANT: PLEASE READ THE PRIVACY ACT NOTICE AND RESPONDENT BURDEN INFORMATION BELOW BEFORE COMPLETING THIS FORM.

**PART I - VETERAN'S IDENTIFYING INFORMATION**

1. NAME OF VETERAN (First, Middle, Last)	
2. VETERAN'S SOCIAL SECURITY NUMBER	3. VA FILE NUMBER
4. VETERAN'S ADDRESS (Number, street or rural route, City or P.O., State and ZIP Code)	
5. TELEPHONE NUMBER(S)	
6. E-MAIL ADDRESS (if applicable)	
A. DAYTIME (Include Area Code)	B. EVENING (Include Area Code)

**PART II - INFORMATION ABOUT CLAIM**

7. I WOULD LIKE TO FILE A CLAIM FOR: (Check all that apply)

INCREASED EVALUATION OF THE DISABILITY(IES) FOR WHICH I AM ALREADY SERVICE CONNECTED  
(Provide the name of the disability(ies))

\_\_\_\_\_

\_\_\_\_\_

SERVICE CONNECTION FOR NEW DISABILITY(IES) (List your new disability(ies))

\_\_\_\_\_

\_\_\_\_\_

REOPENING OF PREVIOUSLY DENIED DISABILITY(IES) (List your previously denied disability(ies))

\_\_\_\_\_

\_\_\_\_\_

DISABILITY(IES) SECONDARY TO MY EXISTING SERVICE CONNECTED DISABILITY(IES)  
(Provide the name of the disability(ies) and your service connected condition(s))

\_\_\_\_\_

\_\_\_\_\_

8A. NAME AND LOCATION OF VA MEDICAL CENTER THAT HAS MY RELEVANT TREATMENT RECORDS	8B. NAME AND ADDRESS OF MILITARY FACILITY THAT HAS MY RELEVANT TREATMENT RECORDS
---	--

8C. DO YOU HAVE PRIVATE TREATMENT RECORDS?

YES  NO

(If "Yes," please attach the treatment records to this form. If you would like to have VA request your private treatment records, please attach a VA Form 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs, for each private treatment provider. The form is available at [www.va.gov/vaforms](http://www.va.gov/vaforms).)

9. I WOULD LIKE TO FILE A CLAIM FOR OTHER VA BENEFITS (Check appropriate box)

AID AND ATTENDANCE  OTHER (Specify benefit) \_\_\_\_\_

AUTOMOBILE ALLOWANCE

10. I WOULD LIKE TO FILE A CLAIM FOR ADDITIONAL BENEFITS BECAUSE MY SPOUSE IS SERIOUSLY DISABLED (Please provide spouse's name and social security number in items 10A & 10B) <input type="checkbox"/>	A. SPOUSE'S NAME	B. SPOUSE'S SOCIAL SECURITY NO.
--	------------------	---------------------------------

11A. VETERAN'S SIGNATURE (Do NOT print)	11B. DATE SIGNED
---	------------------

**PRIVACY ACT NOTICE:** The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e. civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28 Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. Giving us your SSN account information is mandatory. Applicants are required to provide their SSN under Title 38 USC 5101 (c) (1). The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information that you furnish may be utilized in computer matching programs with other Federal or state agencies for the purpose of determining your eligibility to receive VA benefits, as well as to collect any amount owed to the United States by virtue of your participation in any benefit program administered by the Department of Veterans Affairs.

**RESPONDENT BURDEN:** We need this information to make an eligibility determination for veterans' filing supplemental compensation claims (38 U.S.C. 5101). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.whitehouse.gov/omb/library/OMB/INVA.EPA.htm#VA](http://www.whitehouse.gov/omb/library/OMB/INVA.EPA.htm#VA). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.



Department of Veterans Affairs

VA DATE STAMP  
DO NOT WRITE IN THIS SPACE

**VETERAN'S SUPPLEMENTAL CLAIM FOR COMPENSATION**

IMPORTANT: PLEASE READ THE PRIVACY ACT NOTICE AND RESPONDENT BURDEN INFORMATION BELOW BEFORE COMPLETING THIS FORM.

**PART I - VETERAN'S IDENTIFYING INFORMATION**

1. NAME OF VETERAN (First, Middle, Last)	
2. VETERAN'S SOCIAL SECURITY NUMBER	3. VA FILE NUMBER
4. VETERAN'S ADDRESS (Number, street or rural route, City or P.O., State and ZIP Code)	
5. TELEPHONE NUMBER(S)	
6. E-MAIL ADDRESS (If applicable)	
A. DAYTIME (Include Area Code)	B. EVENING (Include Area Code)

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(Provide the name of the disability(ies))

\_\_\_\_\_

\_\_\_\_\_

SERVICE CONNECTION FOR NEW DISABILITY(IES) (List your new disability(ies))

\_\_\_\_\_

\_\_\_\_\_

REOPENING OF PREVIOUSLY DENIED DISABILITY(IES) (List your previously denied disability(ies))

\_\_\_\_\_

\_\_\_\_\_

DISABILITY(IES) SECONDARY TO MY EXISTING SERVICE CONNECTED DISABILITY(IES)  
(Provide the name of the disability(ies) and your service connected condition(s))

\_\_\_\_\_

\_\_\_\_\_

8A. NAME AND LOCATION OF VA MEDICAL CENTER THAT HAS MY RELEVANT TREATMENT RECORDS	8B. NAME AND ADDRESS OF MILITARY FACILITY THAT HAS MY RELEVANT TREATMENT RECORDS
---	--

8C. DO YOU HAVE PRIVATE TREATMENT RECORDS?

YES  NO

(If "Yes," please attach the treatment records to this form. If you would like to have VA request your private treatment records, please attach a VA Form 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs, for each private treatment provider. The form is available at [www.va.gov/vaforms](http://www.va.gov/vaforms).)

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AID AND ATTENDANCE  OTHER (Specify benefit) \_\_\_\_\_

AUTOMOBILE ALLOWANCE

10. I WOULD LIKE TO FILE A CLAIM FOR ADDITIONAL BENEFITS BECAUSE MY SPOUSE IS SERIOUSLY DISABLED (Please provide spouse's name and social security number in Items 10A & 10B) <input type="checkbox"/>	A. SPOUSE'S NAME	B. SPOUSE'S SOCIAL SECURITY NO.
--	------------------	---------------------------------

11A. VETERAN'S SIGNATURE (Do NOT print)	11B. DATE SIGNED
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**RESPONDENT BURDEN:** We need this information to make an eligibility determination for veterans' filing supplemental compensation claims (38 U.S.C. 5101). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.whitehouse.gov/omb/library/OMBINVA.EPA.html#VA](http://www.whitehouse.gov/omb/library/OMBINVA.EPA.html#VA). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.











**Hot Topics in Veterans Law:**  
**Current Trends in Veterans Practice**  
**and Specialized Areas of Practice**



# Recent Case Law

## § 1151 Claims: VA Negligence

*Viegas v. Shinseki*, 705 F.3d 1374 (Fed Cir 2013)

The Veteran suffered from incomplete quadriplegia and was injured while on VA grounds for medical treatment. The BVA denied the Veteran's Section 1151 claim (claim for benefits "as if service-connected" through VA negligence) and the CAVC affirmed. The Veteran appealed to the Federal Circuit.

The Veteran was injured while using the restroom when a grab bar in a handicap stall came loose, causing him to fall to the ground and sustain injuries to his upper and lower extremities. Prior to his fall, the Veteran could sometimes walk with a walker. After the fall, he needed assistance to stand.

The 1151 claim was denied because, at the time of the injury, he was not directly in VA Care. The Board affirmed saying the disability has to flow from the hospital care, medical or surgical treatment, or an examination furnished by the VA and directly be caused by VA activity. CAVC held that although it was in a VA facility, during a time when the Veteran was being treated, it was not caused directly from hospital care, medical or surgical treatment, or during an examination by the VA.

The Federal Court established the injury must be caused from the hospital care or medical treatment received and also be proximately caused by the VA, or an unforeseen event. Proximate cause was not the issue, but rather, whether the injury was "caused by" the treatment or care of the VA. The Court did not find either interpretation of "caused by" sufficient. The Court explained that there does not need to be a direct relationship to the VA care, but the Veteran is not entitled to 1151 simply because he was in a VA medical facility at the time of the injury.

Ultimately, the Court found that the VA was responsible for failing to properly install and maintain the equipment necessary to provide medical treatment. In other words, the VA could not expect to furnish hospital care for disabled Veterans without also providing access to handicap accessible restrooms and other equipment necessary to assist the disabled. This equipment is a necessary component of health services that the VA provides. The Court reversed and remanded the decision of the CAVC.

## Attorney Fees

*Cameron v. Shinseki*, \_\_\_ F. 3d \_\_\_ (Fed. Cir. # 12-7125, decided July 3, 2013)

Veteran acquired attorney after the Board increased his rating but before the Regional Office acted on the Board decision. The attorney sought fees from the retroactive award. Federal Circuit ruled that the attorney was not entitled to fees since the award was not related to work he had

performed. However, the attorney successfully appealed the effective date of the award and was entitled to fees for that work.

### **BVA: Colvin Violation**

*Bryant v. Shinseki*, 12- 1248 (SJ, decided April 15, 2013)

The Board found GAF scores in the 45-49 range to be of "limited probative value," and not consistent with clinical findings. The Court found the Board cannot use its own medical judgment to dispute an examiner's medical opinion and should seek clarification of inconsistent findings rather than use individual portions to support its denial/own assessment.

### **BVA: Hearing Officer Duties**

*Procopio v. Shinseki*, 26 Vet.App 76 (2012)

The BVA denied a Veteran's claims of prostate cancer and diabetes mellitus type II with edema, as secondary to herbicide exposure. The Veteran's ship was not on the presumptive list for herbicide exposure and thus, the Veteran needed to submit evidence of exposure to herbicides and a nexus letter. The Veteran submitted a statement that he handled equipment for aircraft used for spraying herbicides and a study suggesting that the water distillation process used on board ships may have contaminated the water supply and accordingly, ship personnel. He also submitted a doctor's letter indicating that his conditions were related to herbicide exposure. The BVA denied his claim saying the study was too "general", and the doctor's opinion was too "conditional".

The Veteran argued on appeal that the hearing officer failed to follow his duties under 38 C.F.R. Section 3.103(c)(2). More specifically, the officer failed to ask specific questions, didn't explain the factual issues and didn't indicate to the Veteran that he should submit evidence confirming his exposure.

Under *Bryant*, hearing officers must fully explain issues that are outstanding and relevant to the Veteran's claim, and have a duty to suggest that the Veteran submit evidence that is lacking, but necessary for material portions of a claim.

Ultimately, the Court found that the Board member was obligated, but failed, to explain the issues being overlooked by the Veteran and what evidence would be needed to satisfy the requirement. The decision was vacated and the case remanded for readjudication.



### **BVA: Obligations**

*Ryglowski v. Shinseki*, (12-1672, SJ, decided July 10, 2013)

The Secretary admitted to not discussing three pieces of evidence, but said he was not required to discuss everything. The Court concluded that even if the VA is not required to discuss each piece of evidence, that where the documents “appear to be relevant, material, and favorable...” to the claim, the Secretary must consider the evidence and therefore, should discuss it. The Secretary asserted that any error that resulted was harmless since other evidence was similar to the evidence not discussed. However, the Court stated that it could not make the determination whether the error was harmless or not, because that would require the Court to engage in factual analysis of evidence that was not previously considered by the Board, which it cannot do.

*Damschen v. Shinseki*, 12-630 (SJ, decided 2-15-13)

The Board has an obligation to consider all relevant evidence and is presumed to have done so. However, the consideration of evidence does not eliminate the Board’s separate obligation to provide adequate reasons or bases for a decision. The Board has to explain how it considered and weighed the facts favorable to the Veteran.

### **CAVC: Duty to Notify Court**

*Solze v. Shinseki*, 12-1512 (Order issued May 3, 2013)

Both parties have an ongoing responsibility to notify the Court of significant developments, even if they believe it does not affect the Court. That is an issue for the Court to decide. Here, both parties failed to notify the Court of a Board decision on the case that could have “rendered the issue in the Court case moot.” Ultimately, it is up to the Court, not the parties, to decide when or how a decision will affect the case before it.

### **CAVC: Jurisdiction**

*Young v. Shinseki*, 25 Vet.App. 201 (2012) (*en banc*)

The Veteran appealed a BVA decision denying entitlement to PTSD and referring the issue of entitlement to VA benefits based on generalized anxiety disorder. The Court issued a decision which modified the BVA decision for the generalized anxiety claim by changing the referral to a remand to the RO, and affirmed the decision as modified. The Court ultimately held that it has jurisdiction over a decision that denies in part and refers (as opposed to remands) for adjudication of the other part. The Court clarified that its jurisdiction reaches both the denied part of the claim and the referral.

### Clear and Unmistakable Error (CUE)

*Pirkel v. Shinseki*, \_\_\_ Fed. Cir. \_\_\_ (#12-7067, decided June 12, 2013)

If a decision is tossed out for CUE, all of the subsequent decisions can potentially be thrown out if the nullified decision “set the rules” for the following decisions. Subsequent decisions are not null and void on their face, but the CUE “can change the legal and factual background....a subsequent rating” relies on. Whether the subsequent decisions will also be affected will rely on whether they are dependent or independent of the now nullified decision and whether the invalid decision changed the legal/factual issues of a later decision.

*Reeves v. Shinseki*, 682 F.3d 988 (Fed. Cir. 2012)

The Veteran’s surviving spouse appeals a CAVC decision denying the assertion of clear and unmistakable error (CUE) in a 1983 BVA decision. The Veteran originally filed a claim for hearing loss. The Board denied the claim, while also acknowledging the Veteran was exposed to mortar fire while serving. The Board reasoned that the earliest medical records of hearing loss were from November of 1962 and this was too remote. The Veteran did not appeal and the BVA’s decision became final.

In 2004, the claim was reopened after the Veteran submitted new evidence of medical treatment from a physician in 1946-1954 expressing that he had hearing difficulties at that time. The physician also stated it could have been from service. The Board ultimately awarded service connection with an effective date of June 13, 2002. The Veteran asserted his earlier claim from 1983 was CUE because it failed to apply section 1154(b) and he deserved an earlier effective date. Section 1154(b) states in relevant part “the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran.” After the CAVC affirmed and he filed with the Federal Circuit, the Veteran died. His wife substituted on the appeal.

The Court made clear that reasonable doubt must be resolved in favor of the Veteran when determining if a combat Veteran was subject to an injury or disability during active service. The benefit-of-the-doubt must be resolved in favor of the Veteran even if the preponderance of the evidence is against him once service connection is granted. The Court concluded the CAVC misinterpreted 38 U.S.C. Section 1154(b) the Court reversed and remanded.

### Compensation and Pension Exams (C&P)

*Romanowsky v. Shinseki*, \_\_\_ Vet. App. \_\_\_ (#11-3272, decided May 9, 2013)

A C&P exam must contain sufficient detail. Simply reciting facts of a previous diagnosis does not provide adequate evidence to allow the Board to make an informed decision. If there is no information detailing the prior diagnosis, the Board cannot rely on the medical opinion as a basis for the Board's decision. Doing so, would call upon the Board to fill in the medical gaps with its own unsubstantiated opinion. Here, the Court found that the "Board improperly made that determination on its own, without the benefit of a medical opinion to guide its judgment. For these reasons, the Board erred in relying upon this examination."

*Gifford v. Shinseki*, #12-772 (SJ, decided April 12, 2013)

The Board may not discount lay evidence simply because it is not competent to show a diagnosis or nexus where the Board does not also discuss whether those statements are sufficient to establish simply what the Veteran experienced. While a Veteran's lay evidence may not be sufficient to establish nexus, it could be sufficient to establish facts that would warrant a medical opinion. In this case, the Veteran stated he was exposed to cold temperatures. It was not enough for a nexus but the Board failed to discuss whether it was reliable to show the Veteran experienced cold temperatures in service.

*Beasley v. Shinseki*, \_\_\_ F. 3d \_\_\_ (Fed. Cir# 12-7029, decided March 11, 2012)

Veteran had a C&P exam, submitted additional evidence, and sought the opinion of his treating VA doctor. VA instructed the Veteran's treating physician not to reply, citing a conflict of interest. The majority ruled to deny the writ because there is no continuous obligation on the VA to provide exams or an opinion on demand. Duty to Assist simply requires the VA to provide a medical examination when that exam is necessary for a decision on the claim.

### Credibility

*Thomas (Percy) v. Shinseki*, 12-987 (SJ, decided 5-22-13)

Boots on the ground issue in Vietnam. Here, the Veteran submitted approximately five letters from friends, family, etc. and VA denied based on lack of credibility. The statements all provided slightly different time periods of when the Veteran was in Vietnam. The Board based its determination on the lack of credibility on these inconsistencies. The Court held that "the Board explained the inconsistencies in the statements made by the appellant and his friends and based its credibility determination on those inconsistencies. Therefore, the Board provided an adequate statement of reasons or bases for its determination sufficient to enable the appellant to understand the basis of the opinion and the Court to conduct judicial review."

*Beardsley v. Shinseki*, 11-3455 (SJ, decided 2-28-13)

“The Board may not rely on the absence of evidence as substantive negative evidence.” See *Horn v. Shinseki*, 25 Vet.App 231, 239 & n.7 (2012). Except if the missing record would typically be recorded, the absence of evidence cannot be used to lessen the credibility of a Veteran’s statements.

*Jolly v. Shinseki*, 11-3495 (SJ, decided 2-15-13)

The Veteran’s credibility was called into question. In this case the Veteran was denied despite two independent exams in support since the exam reports relied on the Veteran’s statements. Lack of credibility of the Veteran can be used liberally to deny benefits where the evidence is based on statements by the Veteran.

#### **Current Disability**

*Romanowsky v. Shinseki*, \_\_\_ Vet.App. \_\_\_ (#11-3272, decided May 9, 2013)

The Court clarifies that a claimant can meet the current disability standard when the disability is present at the time the claim is filed, even if the disability concludes or resolves before the claim is adjudicated.

#### **Earlier Effective Date (EED)**

*Harris v. Shinseki*, 704 F. 3d 946 (Fed. Cir 2013)

The Veteran appeared pro se and sought review of a CAVC decision affirming a BVA decision for service-connected dermatitis and latex allergy, with an effective date of July 29, 2002. The Veteran contended his effective date should have been the date of his 1985 VA medical examination.

The Board held that the examination did not constitute a formal or informal claim for service-connection, and that the letter submitted by the Veteran on July 29, 2002 was the earliest expression of his intent to seek service connection for his skin disorder. The CAVC affirmed the decision both under a single judge panel, and again on reconsideration under a three judge panel. The Veteran appealed to the Federal Circuit alleging that the Court misapplied the legal standard when deciding his claim.

On review, the Federal Court cited case law indicating that the VA has a duty to pro se appellants to generously construe a filing to include all possible claims under the evidence, and that any ambiguities should be construed as an informal claim and resolved in favor of the Veteran. The Federal Court said that neither the single judge or three judge panel acknowledged this duty. The Court differentiated this duty from the statutory benefit-of-the-doubt standard,

which the VA argued they followed. The case was vacated and remanded so the Board could correctly decide the earliest effective date.

*Massie v. Shinseki*, \_\_\_ F. 3d. \_\_\_ (Fed. Cir. #12-7087, decided July 29, 2013)

For EED under Section 3.157, if the Veteran is alleging an informal claim, the documents he submits must qualify as a report of examination. Here, the Veteran submitted a letter from a VAMC Doctor alleging it qualified as an informal claim. The CAVC explained that under 3.157 the Doctor's note was not an examination report because it failed to describe the results of a specific exam and made no mention of a worsening condition. because it did not meet the requirements of 3.157, the note did not qualify as an informal claim. Thus, the CAVC decision was affirmed by the Federal Circuit.

*Cline v. Shinseki*, \_\_\_ Vet.App \_\_\_, 2012 WL 3524832

The Veteran appeals a 70% rating for PTSD with an effective date of May 6, 1999. The Court held that the Board incorrectly applied section 3.156(c)(2) retroactively, and vacated the part of the decision concluding that an effective date earlier than May 6, 1999 was not warranted. The case was remanded for readjudication of this issue. The Court also held that the Board properly applied the standards concerning the 70% rating and affirmed the rest of its decision.

In June 1993, a VA examiner concluded that though the Veteran might have had a "mild case" of PTSD from incidents he witnessed in service, based on the examination, the Veteran's symptoms did not warrant a diagnosis. The Veteran did not appeal this decision and it became final. He tried to reopen the claim in September 1999, but VA concluded that he did not submit new and material evidence. In July 2000, the Veteran submitted a questionnaire that stated that his stressor was that his friend "Butch" was killed. The VARO asked him to submit more specific evidence in March 2001, but the Veteran did not reply. In 2002, he was denied for not having corroboration of a stressor for his diagnosis. Finally, in August of 2003 he sent a statement to the VA providing the name for "Butch" as Robert Clifton and the VA sought evidence to corroborate his account. The VA inquired with the Center for Unit Records Research and received notification that a Mr. Robert Clifton had drowned in a manner similar to the Veteran's statements. In September 2005, the VARO assigned the Veteran a 30% rating. After filing a Notice of Disagreement in January 2008, the VARO issued a 50% rating effective May 6, 1999, and a 70% rating from January 22, 2007.

The question at issue was whether the records from the Center of the death were sufficient under section 3.156(c)(1), which would permit an effective date back to the original date of claim (January 1993). This section allows the effective date to be the original date of claim where records (that were not previously in the record) are the basis for the award. On October 6, 2006 section 3.156(c) was amended to establish clearer rules pertaining to reconsideration of past decisions on the basis of newly discovered service records. In short, after the VA issues a decision on a claim, if they obtain relevant official service records that were not associated with the file at the time of the decision, the VA has to reconsider the claim. The amendments were not expressly made retroactive.

The Board concluded that while review of the records could fall under 3.156(c)(1), they more likely fall under section 3.156(c)(2), which states section 3.156(c)(1) does not apply if the Veteran does not supply sufficient information that would allow the VA to attempt to verify the Veteran's claimed stressor.

The Court ultimately concluded that because the amendments were not expressly made retroactive, the Board erred by retroactively applying the exception to deny entitlement to an earlier effective date for PTSD. The Court directed the Board to determine the effective date, regardless of the date the Veteran provided sufficient information under the amendment.

### EAJA Fees

*Dudley v. Shinseki* (SJ, 12-1506, decided March 27, 2013)

Joint Motion for Remand (JMR) entered into because the earlier version of 3.156 was not applied. However, Secretary argued against fees by saying the Veteran was not a prevailing party. Court ruled in favor of the Veteran saying the JMR showed remand was necessary to correctly apply the statute, so error was acknowledged.

*Selveira v. Shinseki*, 12-989 (SJ, decided 2-15-13)

Here even though parties agreed the issues were intertwined (Denial for Increase of PTSD Rating and Remand of TDIU to assess how the PTSD affects it), the JMR did not specifically state that there was administrative error. The Judge ruled that the Board was not required to recognize the issues were intertwined. Accordingly, EAJA fees were denied.

### Hearing Officer Duty

*NOVA v. Secretary*, \_\_\_ F. 3d \_\_\_ (Fed. Cir. # 11-7191, decided March 21, 2013)

NOVA challenged VA efforts to amend 3.103 in 2011, where VA wanted to overturn the CAVC decision of *Bryant v. Shinseki*, 23 Vet.App 488 (2010). NOVA submitted evidence that VA relied on the rule in many cases after March 5, 2012. Court issued an order to show cause why sanctions should not be issued. In short, the VA realized they could not overturn the Court ruling in *Bryant* by regulation, but never followed through. As urged by the Court, VA and NOVA came up with a plan for relief to vacate Board decisions in the affected cases and provide each affected claimant with a new hearing and opportunity to submit new evidence. Sanctions have not yet been issued.

### Interpretation of Regulations

*Walker v. Shinseki*, \_\_ F.3d \_\_, 2013 WL 628429

The Veteran appealed a BVA decision denying his claim for bilateral hearing loss. Pending the appeal the Veteran died and his son was substituted as the potential beneficiary for accrued benefits. The Veteran suffered from bilateral hearing loss and would qualify for compensation if he could establish service connection for the diagnosed condition. The examiner concluded it was less likely as not due to service and more likely due to aging and activities such as hunting without protection. CAVC agreed with the Board and the son appealed, arguing that the Court failed to apply the correct law when denying him a remand to assess evidence of continuity of the symptomatology for bilateral hearing loss.

The appellant argued, even if there was no evidence of an in service diagnosis it was noted to occur in service by the Veteran's wife and son. The appellant contended that the Veteran had presented evidence of continuity following discharge to link the diagnosed hearing loss with the hearing loss condition noted in service. The son asserted, the term "chronic disease" in section 3.303(b) should apply to any disease that is chronic. The VA argued that the interpretation of the term was limited by 3.304(a) and that service connection on this basis is only available for the specific chronic conditions listed.

The Court concluded that 3.303(b) was limited by 3.303(a) and the purpose was to relax the requirements for service connection for the diseases listed. Failure to limit 3.303(b) as such would undermine the requirement of demonstrating the nexus element of a claim. Finally, since the son sought compensation for a condition not listed under 3.303(a) his claim could not be brought under 3.303(b). The Court affirmed the decision of the CAVC and the Board.

### Marriage

*Burden v. Shinseki*, \_\_ Fed. Cir. \_\_ (# 12-7096, decided July 16, 2013)

Under Alabama law the validity of a marriage must be shown by clear and convincing evidence. The appellant's claim for DIC benefits was denied because of mixed evidence of a common law marriage pertaining to DIC entitlement. The appellant's argument was that VA should have applied its own benefit of the doubt rule, and not Alabama's clear and convincing evidence standard to establish the common law marriage. The Federal Circuit ruled that for DIC benefits, the validity of the marriage is determined by where the parties reside.

### **Medical Experts and Reports**

*Townsend v. Shinseki*, 12-507 (SJ, decided 5-20-13)

A C&P examiner was asked to resolve a conflict between two medical opinions. Instead, the physician criticized the private doctor's opinion for being based solely on history. The Court found that the VA physician overstepped his authority, which tainted his own opinion. These misstatements also created doubt as to whether the C&P physician gave proper consideration to the Veteran's history, thus further tainting his opinion. Accordingly, the Court ruled the Board made a mistake by relying on this examiner's opinion.

*Parks v. Shinseki*, \_\_\_ F. 3d \_\_\_ (# 12-7089, decided May 3, 2013)

Veteran argued for the applicability of the presumption of soundness at the CAVC level without having previously argued it at the agency level. Since the Veteran did not raise the issue at the agency level the Federal Circuit ruled he had waived it. Secondly, the Court discussed how the VA benefits from the presumption that they properly choose medical experts to review claims, but that presumption can be overcome if the Veteran shows the presumed qualifications of an expert are not present. Nonetheless, this must be raised or objected to at the agency level and since the Veteran did not object to the qualifications of the nurse practitioner at the agency level he could not raise it here.

*Caudillo v. Shinseki*, SJ, 11-2664 (decided 11-26-12)

The Board concluded the Veteran's violent behavior resulted from an anti-social disorder rather than PTSD. The Board did not support its statement with data or any reasoning. The Court noted that the irritability and outbursts of anger the Board attributed to the Veteran's anti-social disorder are diagnostic criteria for PTSD. Accordingly, the Court found the Board's statement of reasons and bases was inadequate to support a diagnosis of anti-social disorder or for assigning the Veteran's symptoms of irritability and outbursts of anger to that condition.

### **Military Sexual Trauma (MST): Corroboration**

*Hall v. Shinseki*, \_\_\_ F. 3d \_\_\_ (# 2012-7115, decided June 7, 2013)

Veteran who alleged to be the victim of Military Sexual Trauma argued he should be able to use the "hostile military or terrorist activity" provision of 3.304(f)(3) for PTSD instead of 3.304(f)(5). This interpretation would not require independent corroboration of the stressor. The Court disagreed and interpreted "hostile" as enemy action, not friendly fire or assault from colleagues.



### **New and Material Evidence**

*Beraud v. Shinseki*, \_\_\_ Vet. App. \_\_\_ (#11-726, decided May 17, 2013)

The majority held that the Veteran's new and material evidence that re-opened in 2004, a claim from 1985, did not keep the 1985 claim "pending" under 3.156(b) and thus, the effective date (VA granted a 2004 effective date). Veteran also argued CUE for the original denial, since he informed the VA where to find his service records in 1985 and they did not follow up. CUE was also denied because the failure to obtain the service records was at worst, a violation of the VA's Duty to Assist, but does not rise to the level of CUE.

*West v. Shinseki*, 11-3577 (SJ, decided 4-4-13)

Veteran submitted evidence of damage to joints by ionizing radiation. Board ruled there was no new and material since general information in a treatise cannot establish a nexus to a disease or injury. Here, the Court acknowledged prior holdings that treatise evidence is rarely sufficient, but also held that appellant only had to re-open his claim at this time – not prove service connection. The evidence here would not establish service connection, but was a basis for re-opening the claim, which in turn triggers the Secretary's Duty to Assist. The evidence suggested a nexus but was too general to be the basis of a decision.

### **Presumption of Aggravation v. Presumption of Soundness**

*Horn v. Shinseki*, 25 Vet.App. 231 (2012)

The Veteran was denied service connection for a left hip disorder. The presumption of soundness was agreed to apply by both sides since the Veteran's entrance exam did not have any indication of a hip condition. The main issue was whether a medical report with an "X" in a box (with no notes/explanation) constituted clear and unmistakable evidence of lack of aggravation. The Court held it was not sufficient to rebut the aggravation element of the presumption of soundness. Therefore, the CAVC reversed the Board's decision and remanded the claim for further proceedings.

While there was enough evidence to rebut the presumption of soundness for a pre-existing condition, that is, the Veteran's Legg-Perthes disease, there was not a showing of evidence to rebut the presumption of aggravation. The VA must point to specific findings that the increase in the disability is due to the natural progress of the disability, rather than service. In other words, the VA has the burden of showing lack of aggravation, while the Veteran does not have to show proof of aggravation, since the presumption is intended to favor the Veteran. In this case, the Board relied on the absence of any records from service showing that the disease worsened. The important distinction here is that for presumption of aggravation cases the Veteran or claimant has the burden to prove the increase of severity, but for presumption of soundness cases the burden is on the VA, not the Veteran. The presumption of aggravation statutory provisions do not apply to the analysis for the aggravation prong of the presumption of soundness.

The Court reversed the Board's decision that presumption of soundness had been rebutted and found that the Veteran's hip condition was aggravated in service and remanded the case.

### **Presumption of Regularity**

*Kyhn v. Shinseki*, \_\_\_ F. 3d \_\_\_ (#12-7003, decided May 3, 2013)

The Court held that the VA established the presumption of regularity to notify Veterans of their exams and the Court therefore must presume that VA properly notified the Veteran. The Veteran appealed because the CAVC relied on testimony from a manager at the VAMC who explained the electronic process used to generate and mail notices. The appellant's basis for the appeal was that the CAVC relied on evidence that was not contained in the Record Before the Agency (RBA). The Federal Court found that the CAVC cannot rely on evidence outside of the record. The CAVC can only look at evidence outside the record to determine jurisdiction. However, if the presumption is based on independent legal authority, the CAVC can use it as consideration for their decision.

### **Presumption of Soundness**

*Lloyd v. Shinseki*, 12 -127 (SJ, decided May 13, 2013)

VA can rebut the presumption of soundness with clear and unmistakable evidence that a disability was preexisting and not aggravated. If VA cannot rebut the presumption, the Veteran still has to show current disability and nexus to meet the service connection or aggravation standards.

### **Ratings**

*Middleton v. Shinseki*, \_\_\_ F. 3d \_\_\_ (Fed. Cir. #13-7014, decided August 15, 2013)

The Veteran sought a higher rating for his service connected diabetes. The Veteran was on a diet, had to regulate activities, and take an insulin substitute. However, the Court took a strict reading of the code and ruled that it only gives a 40% rating for a condition requiring insulin, not an insulin substitute (along with restricted diet and regulation of activities). The other issue raised by the Veteran was that under § 4.7, the VA should have granted him the 40% rating because he had more symptoms than the 20% rating. The Court also rejected this argument stating, "there is no question as to which evaluation shall be applied when a Veteran does not satisfy all of the required criteria of the higher rating but does satisfy all of the criteria of the lower rating."

### Ratings: Psych Disorders

*Vazquez-Claudio v. Shinseki*, \_\_\_ F. 3d \_\_\_ (#12-7114, decided April 8, 2013)

The Veteran argued he should be entitled to a 70% rating if his symptoms caused the impairments “in most areas of life”, regardless of what his actual symptoms are. The Fed Circuit held that “[e]ntitlement to a 70 percent disability rating requires sufficient symptoms of the kind listed in the 70 percent requirements, or others of similar severity, frequency or duration, that cause occupational and social impairment with deficiencies in most areas such as those enumerated in the regulation. The 70 percent disability rating regulation contemplates initial assessment of the symptoms displayed by the veteran, and if they are of the kind enumerated in the regulation, an assessment of whether those symptoms result in occupational and social impairment with deficiencies in most areas.”

### Ratings: Rating Percentages

*Middleton v. Shinseki*, \_\_\_ F. 3d \_\_\_ (Fed. Cir. #13-7014, decided August 15, 2013)

Here the Veteran wanted a higher rating for his service connected diabetes. The Veteran was on a diet, had to regulate activities and take an insulin substitute. However, the Court took a strict reading of the code and ruled that it only gives a 40% rating for a condition requiring insulin, not an insulin substitute (along with restricted diet and regulation of activities). The other issue raised by the Veteran was that under § 4.7, the VA should have granted him the 40% rating because he had more symptoms than the 20% rating. The Court also rejected this argument stating, “there is no question as to which evaluation shall be applied when a Veteran does not satisfy all of the required criteria of the higher rating but does satisfy all of the criteria of the lower rating.”

*Thames v. Shinseki*, 11-3672 (SJ, decided March 25, 2013)

VA proposed to reduce the Veteran’s knee rating from 20% to 10%. The Veteran’s knee had been rated at 20% for over 5 years. The Court found that the Board’s analysis lacked discussion for whether the evidence “actually reflect[ed] an improvement in the Veteran’s ability to function under the ordinary conditions of life and work,” which under the circumstances, was an error of law. When Board fails to discuss the applicable law to reduce a rating the Court can reinstate the prior rating on remand. The decision is considered *void ab initio*, when reduced without regards to law.

*Davis v. Shinseki*, 12-997 (SJ, decided 2-15-13)

In this ratings reduction case, the Board failed to discuss the applicable law. The Court held that while “the remedy for the Board’s failure to properly apply the law or provide an adequate statement of reasons or bases is ordinarily remand,” when, as in this case, “the Board reduces a Veteran’s disability rating without regard to the law, the decision is void ab initio.” So, “[w]hen the issue raised is a rating reduction and the Court determines that the reduction was made

without observance of law . . . this Court, acting under . . . 38 U.S.C. § 7261(a)(3)(D), has ordered reinstatement of the prior rating.” Accordingly, the Court reinstated the Veteran’s prior rating.

### **Ratings: Scheduling Criteria**

*Jones v. Shinseki*, 26 Vet.App 56 (2012)

The Veteran appealed a BVA decision that denied entitlement to a rating in excess of 10% for Irritable Bowel Syndrome (IBS). After remanding the IBS claim for additional development, the Board ultimately found the evidence did not indicate a level of impairment that would justify the next highest rating of 30%. When evaluating the claim, the Board considered that medication provided some relief to the Veteran.

The Veteran appealed, contending the Board committed legal error since it considered factors that were not in the rating schedule criteria, namely that medication provided some relief. The Veteran cited to other rating criteria that considered medication and asserted that medication would have been enumerated in the specific rating criteria for IBS, if the intent was for it to be considered.

The Court held that the Board committed legal error by considering factors outside the rating criteria. The decision was vacated and remanded for readjudication.

### **Ratings: Shoulder**

*Yonek v. Shinseki*, \_\_\_ F. 3d \_\_\_ (Fed. Cir. # 12-7120, decided July 8, 2013)

The Veteran had limited motion in flexion and abduction from a service connected disability which was rated as one disability. He argued that it should constitute two disabilities. The Court disagreed explaining that limited motion of a single arm at the shoulder is a single disability, despite the number of planes in which the motion is limited.

### **Retroactive Application of Regulation**

*Kernea v. Shinseki*, \_\_\_ F. 3d \_\_\_ (Fed. Cir. # 12-7142, decided August 1, 2013)

The Veteran’s widow asked the Board to make a *de novo* finding on the record that the Veteran was disabled for the last eight years of his life (even though he was only assigned 100% rating for less than four years before he died). The Veteran would have needed to be rated at 100% for at least eight years prior to his death to be entitled to receive the benefit. The Board and CAVC found the claim was barred by 38 C.F.R. § 3.10(f)(3), which prohibits hypothetical entitlement claims. The Veteran’s wife argued that this regulation should not apply retroactively to her. The Federal Circuit held the rule applies retroactively, and as a result denied the claim.

### Secondary Conditions

*El-Amin v. Shinseki*, \_\_ Vet.App. \_\_, 2013 WL 15114 (Vet.App)

After a motion for reconsideration, the Court vacated the Board's decision and remanded the case for consideration of whether the Veteran's non-service connected alcoholism was aggravated by his service connected PTSD.

The Veteran died from cirrhosis which was caused by his alcoholism. The question for the Court was whether the examiner's conclusion that the Veteran's alcoholism was related to factors other than his PTSD was sufficient to conclude that the PTSD did not aggravate the alcoholism. The Court found that the BVA's determination that this medical opinion was adequate was clearly erroneous, because it did not consider whether the PTSD could have aggravated the Veteran's alcoholism. Instead, the Board's inquiry stopped when they determined there was no connection between the PTSD and alcoholism. The Court vacated for a new medical opinion that would consider the evidence and whether the alcoholism could have been aggravated by the PTSD.

### Service Connection

*Walker v. Shinseki*, \_\_\_ F. 3d. \_\_\_ (11-7184, decided Feb. 21, 2013)

Chronic conditions are limited to 3.309(a). Continuity of symptoms listed under 3.303(b) for diseases not enumerated in 3.309(a) are abrogated. When the requirement for chronic disease in service is met, all following manifestations of that disease are service connected. However, the Court has found that the disease has to be established and there cannot be any legitimate questions surrounding the diagnosis.

### Submissions in Non-Writ Cases

*Smith (Jeanette) v. Shinseki*, #11-3143 (SJ, decided May 6, 2013)

The Court is not allowed to consider material not in the record before the Board (RBA). Here, the widow provided a copy of an RO decision granting entitlement to disability benefits for DIC. She provided this after briefing, but prior to the Court issuing a decision. Since all parties are obligated to provide the Court with any significant developments, the Court was unable to consider this evidence. The Court remanded the case so the widow could submit the RO decision to the Board, which can address the decision if they find it relevant.

**TDIU**

*Marks v. Shinseki*, 12-30 (SJ, decided May 22, 2013)

The Court agreed with the appellant, that the Board failed to look at the total effect of the Veteran's disabilities and how they prevented him from engaging in substantial gainful occupation. Instead, the Board looked at each service-connected disabilities individually. The Court found the Board should have included a discussion of each of the Veteran's disabilities considered as a whole and their combined impact on the Veteran's ability to work.







**United States Court of Appeals for  
Veterans Claims : Instructions and  
Form for Attorney Admission to  
Practice**



**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**  
**Instructions for Attorney Admission to Practice**

**Eligibility.** Rule 46(a)(1) of the Court's Rules of Practice and Procedure provides:

(1) *Admission of attorneys to bar of Court.*

(A) **General.** A person of good moral character and repute who has been admitted to practice in the Supreme Court of the United States, or the highest court of any state, the District of Columbia, or a United States territory or commonwealth within the meaning of 48 U.S.C. § 1904(e)(5), and is in good standing therein, may be admitted to the bar of the Court upon application. *See* Rules of Admission and Practice.

(B) **Active Status.** Practice before the Court requires an attorney to maintain active status in good standing in the highest court of any state, the District of Columbia, or a United States territory or commonwealth within the meaning of 48 U.S.C. § 1904(e)(5).

(C) **Application.** An attorney at law may be admitted to the bar of the Court upon filing with the Clerk a completed application accompanied by the applicable fee (payable by check or money order) and a current certificate from the clerk of the appropriate court showing that the applicant is a member in good standing of the bar of one of the courts named in paragraph (A) of this subsection. A current court certificate is one executed not earlier than 3 months before the date of the filing of the application.

**Application.** Attached is an application for admission. You must submit a certificate of good standing from the clerk of one of the specified courts [*not* a letter from your state bar]. If no local attorney is sponsoring your admission, you may leave the motion portion of the form blank and a Court staff attorney will move your admission.

**Restrictions on practice.** If you are an officer or employee of the U. S. Government, or if you are a former federal officer or employee whose service involved matters relating to veterans affairs, 18 U.S.C. § 205 or § 207 may prohibit you from representing an appellant or petitioner before this Court. These laws will not prevent your admission to practice, but if you think they may apply to you, you should contact the Designated Agency Ethics Official or an ethics counselor at your current or former agency, or the Office of Government Ethics, for advice before you agree to represent someone.

**Fee Agreements.** If you represent an appellant or petitioner before this Court, you must submit for filing with the Court a notice of appearance in the detail set out in Form 3 in the Appendix of Forms, and a copy of any retainer agreement and any fee agreement with that person. Rule 46(b) and 38 U.S.C. § 7263.

**Practitioner lists.** The Court maintains two practitioner lists.

a. An internal list of all persons admitted to practice. We use this list to verify your status when you enter an appearance in a case, to tell you about judicial conferences and other significant Court matters, and to provide certificates of good standing at your request.

b. A public list of practitioners who have said that they are available to represent appellants. We send this state-by-state alphabetical list with our notice of docketing to each self-represented person who files a notice of appeal, and we post the list on our website. We will include your name, address, telephone number, and e-mail address only if you request. You may receive inquiries from appellants about representation and from persons who want to sell books, conduct education programs, or organize bar activities.



**APPLICATION FOR ADMISSION OF AN ATTORNEY  
TO THE BAR OF  
THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

Rule 46: "A person of good moral character and repute who has been admitted to practice in the Supreme Court of the United States, or the highest court of any state, the District of Columbia, or a United States territory or commonwealth within the meaning of 48 U.S.C. § 1904(e)(5), and is in good standing therein, may be admitted to the bar of the Court upon application."

1. Name: (Mr.)(Ms.) \_\_\_\_\_

Date of Birth: \_\_\_\_\_

2. Business Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Numbers: (Office) \_\_\_\_\_ (Home or Cell) \_\_\_\_\_

FAX Number: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

List all courts in which you are currently admitted:

COURT	DATE OF ADMISSION
_____	_____
_____	_____
_____	_____
_____	_____

Attach a current certificate of good standing from one of the courts specified in Rule 46 executed within the three months preceding the date of submission of this application. *A letter or certificate from a state bar will not satisfy this requirement.*

4. Have you ever been suspended for misconduct or disbarred from the practice of law in any jurisdiction, or is any action pending as to your conduct or fitness to practice law which could result in public discipline?

If yes, explain in full (including dates) on continuation sheet.

5. Have you ever had your right to practice in any jurisdiction or before any federal, state, or municipal department, bureau, commission, office, or agency qualified, terminated, or withdrawn, or has any such entity ever imposed public discipline on you, or is any such action pending? \_\_\_\_\_ If yes, explain in full (including dates) on continuation sheet.

6. Do you want to be admitted to the bar of this Court in open Court? \_\_\_\_\_  
(If "Yes," the Clerk of the Court will contact you with the date and time of the admission ceremony.)

7. Do you want your name, address, and office telephone number included in the Court's public list of practitioners who have indicated their availability to represent appellants? \_\_\_\_\_

OATH (AFFIRMATION)

I, \_\_\_\_\_, solemnly swear (or affirm) that I am an attorney at law in good standing in the Courts listed above, and that I will conduct myself as an attorney and counselor of this Court uprightly and according to law, and that I will support the Constitution of the United States.

I certify under penalty of perjury that the foregoing is true and correct. (28 U.S.C. § 1746)

\_\_\_\_\_  
(Signature of Applicant)

Date \_\_\_\_\_

MOTION

(Admission must be moved by a member of the Court's bar; if you do not know a member to act on your behalf, a Court staff attorney will do so upon approval of your application.)

I, \_\_\_\_\_, a member of the bar of this Court, move for admission of the above named attorney.

Date \_\_\_\_\_

\_\_\_\_\_  
(Signature of Attorney)

**FEE:** A practice fee of \$100 must accompany your application. Make check payable to:  
**U. S. Court of Appeals for Veterans Claims**

Send to:  
Admissions Clerk  
U.S. Court of Appeals for Veterans Claims  
625 Indiana Avenue NW, Suite 900  
Washington, DC 20004

**\*FOR COURT USE ONLY\***

Fee Paid [ ] Date: \_\_\_\_\_

Admitted [ ] \ Not Admitted [ ]

\_\_\_\_\_  
Clerk of the Court

Date: \_\_\_\_\_

**§14.629 Requirements for accreditation of service organization representatives, agents,  
and attorneys.**

The Assistant General Counsel of jurisdiction or his or her designee will conduct an inquiry and make an initial determination regarding any question relating to the qualifications of a prospective service organization representative, agent, or attorney. If the Assistant General Counsel or designee determines that the prospective service organization representative, agent, or attorney meets the requirements for accreditation in paragraphs (a) or (b) of this section, notification of accreditation will be issued by the Assistant General Counsel or the Assistant General Counsel's designee and will constitute authority to prepare, present, and prosecute claims before an agency of original jurisdiction or the Board of Veterans' Appeals. If the Assistant General Counsel determines that the prospective representative, agent, or attorney does not meet the requirements for accreditation, notification will be issued by the Assistant General Counsel concerning the reasons for disapproval, an opportunity to submit additional information, and any restrictions on further application for accreditation. If an applicant submits additional evidence, the Assistant General Counsel will consider such evidence and provide further notice concerning his or her final decision. The determination of the Assistant General Counsel regarding the qualifications of a prospective service organization representative, agent, or attorney may be appealed by the applicant to the General Counsel. Appeals must be in writing and filed with the Office of the General Counsel (022D), 810 Vermont Avenue, NW., Washington, DC 20420, not later than 30 days from the date on which the Assistant General Counsel's decision was mailed. In deciding the appeal, the General Counsel's decision shall be limited to the evidence of record before the Assistant General Counsel. A decision of the General Counsel is a final agency action for purposes of review under the Administrative Procedure Act, 5 U.S.C. 701-706.

(a) *Service Organization Representatives.* A recognized organization shall file with the Office of the General Counsel VA Form 21 (Application for Accreditation as Service Organization Representative) for each person it desires accredited as a representative of that organization. The form must be signed by the prospective representative and the organization's certifying official. For each of its accredited representatives, a recognized organization's certifying official shall complete, sign and file with the Office of the General Counsel, not later than five years after initial accreditation through that organization or the most recent recertification by that organization, VA Form 21 to certify that the representative continues to meet the criteria for accreditation specified in paragraph (a)(1), (2) and (3) of this section. In recommending a person, the organization shall certify that the designee:

(1) Is of good character and reputation and has demonstrated an ability to represent claimants before VA;

(2) Is either a member in good standing or a paid employee of such organization working for it not less than 1,000 hours annually; is accredited and functioning as a representative of another recognized organization; or, in the case of a county veteran's service officer recommended by a recognized State organization, meets the following criteria:

(i) Is a paid employee of the county working for it not less than 1,000 hours annually;

(ii) Has successfully completed a course of training and an examination which have been approved by a Regional Counsel with jurisdiction for the State; and

(iii) Will receive either regular supervision and monitoring or annual training to assure continued qualification as a representative in the claim process; and

(3) Is not employed in any civil or military department or agency of the United States. (Authority: 38 U.S.C. 501(a), 5902)

*(b) Accreditation of Agents and Attorneys.*

(1) No individual may assist claimants in the preparation, presentation, and prosecution of claims for VA benefits as an agent or attorney unless he or she has first been accredited by VA for such purpose.

(i) For agents, the initial accreditation process consists of application to the General Counsel, self-certification of admission information concerning practice before any other court, bar, or State or Federal agency, an affirmative determination of character and fitness by VA, and a written examination.

(ii) For attorneys, the initial accreditation process consists of application to the General Counsel, self-certification of admission information concerning practice before any other court, bar, or State or Federal agency, and a determination of character and fitness. The General Counsel will presume an attorney's character and fitness to practice before VA based on State bar membership in good standing unless the General Counsel receives credible information to the contrary.

(iii) As a further condition of initial accreditation, both agents and attorneys are required to complete 3 hours of qualifying continuing legal education (CLE) during the first 12-month period following the date of initial accreditation by VA. To qualify under this subsection, a CLE course must be approved for a minimum of 3 hours of CLE credit by any State bar association and, at a minimum, must cover the following topics: representation before VA, claims procedures, basic eligibility for VA benefits, right to appeal, disability compensation (38 U.S.C. Chapter 11), dependency and indemnity compensation (38 U.S.C. Chapter 13), and pension (38 U.S.C. Chapter 15). Upon completion of the initial CLE requirement, agents and attorneys shall certify to the Office of the General Counsel in writing that they have completed qualifying CLE. Such certification shall include the title of the CLE, date and time of the CLE, and identification of the CLE provider, and shall be submitted to VA as part of the annual certification prescribed by §14.629(b)(4).

(iv) To maintain accreditation, agents and attorneys are required to complete an additional 3 hours of qualifying CLE on veterans benefits law and procedure not later than 3 years from the date of initial accreditation and every 2 years thereafter. To qualify under this subsection, a CLE course must be approved for a minimum of 3 hours of CLE credit by any State bar association. Agents and attorneys shall certify completion of the post-accreditation CLE requirement in the same manner as described in §14.629(b)(1)(iii).

(2) An individual desiring accreditation as an agent or attorney must establish that he or she is of good character and reputation, is qualified to render valuable assistance to claimants, and is otherwise competent to advise and assist claimants in the preparation, presentation, and prosecution of their claim(s) before the Department. An individual desiring accreditation as an agent or attorney must file a completed application (VA Form 21a) with the Office of the General Counsel (022D), 810 Vermont Avenue, NW., Washington, DC 20420, on which the applicant submits the following:

- (i) His or her full name and home and business addresses;
- (ii) Information concerning the applicant's military and civilian employment history (including character of military discharge, if applicable);
- (iii) Information concerning representation provided by the applicant before any department, agency, or bureau of the Federal government;
- (iv) Information concerning any criminal background of the applicant;
- (v) Information concerning whether the applicant has ever been determined mentally incompetent or hospitalized as a result of a mental disease or disability, or is currently under treatment for a mental disease or disability;
- (vi) Information concerning whether the applicant was previously accredited as a representative of a veterans service organization and, if so, whether that accreditation was terminated or suspended by or at the request of that organization;
- (vii) Information concerning the applicant's level of education and academic history;
- (viii) The names, addresses, and phone numbers of three character references; and
- (ix) Information relevant to whether the applicant for accreditation as an agent has any physical limitations that would interfere with the completion of a comprehensive written examination administered under the supervision of a VA Regional Counsel (agents only); and
- (x) Certification that the applicant has satisfied the qualifications and standards required for accreditation as prescribed by VA in this section, and that the applicant will abide by the standards of conduct prescribed by VA in §14.632 of this part.



(3) Evidence showing lack of good character and reputation includes, but is not limited to, one or more of the following: Conviction of a felony, conviction of a misdemeanor involving fraud, bribery, deceit, theft, or misappropriation; suspension or disbarment from a court, bar, or Federal or State agency on ethical grounds; or resignation from admission to a court, bar, or Federal or State agency while under investigation to avoid sanction.

(4) As a further condition of initial accreditation and annually thereafter, each person seeking accreditation as an agent or attorney shall submit to VA information about any court, bar, or Federal or State agency to which the agent or attorney is admitted to practice or otherwise authorized to appear. Applicants shall provide identification numbers and membership information for each jurisdiction in which the applicant is admitted and a certification that the agent or attorney is in good standing in every jurisdiction in which admitted. After accreditation, agents and attorneys must notify VA within 30 days of any change in their status in any jurisdiction in which they are admitted to appear.

(5) VA will not accredit an individual as an agent or attorney if the individual has been suspended by any court, bar, or Federal or State agency in which the individual was previously admitted and not subsequently reinstated. However, if an individual remains suspended in a jurisdiction on grounds solely derivative of suspension or disbarment in another jurisdiction to which he or she has been subsequently reinstated, the General Counsel may evaluate the facts and grant or reinstate accreditation as appropriate.

(6) After an affirmative determination of character and fitness for practice before the Department, applicants for accreditation as a claims agent must achieve a score of 75 percent or more on a written examination administered by VA as a prerequisite to accreditation. No applicant shall be allowed to sit for the examination more than twice in any 6-month period.

*(c) Representation by Attorneys, Law Firms, Law Students and Paralegals.*

(1) After accreditation by the General Counsel, an attorney may represent a claimant upon submission of a VA Form 21-22a, "Appointment of Attorney or Agent as Claimant's Representative."

(2) If the claimant consents in writing, an attorney associated or affiliated with the claimant's attorney of record or employed by the same legal services office as the attorney of record may assist in the representation of the claimant.

(3) A legal intern, law student, or paralegal may not be independently accredited to represent claimants under this paragraph. A legal intern, law student, or certified paralegal may assist in the preparation, presentation, or prosecution of a claim, under the direct supervision of an attorney of record designated under §14.631(a), if the claimant's written consent is furnished to VA. Such consent must specifically state that participation in all aspects of the claim by a legal intern, law student, or paralegal furnishing written authorization from the attorney of record is authorized. In addition, suitable authorization for access to the claimant's records must be provided in order for such an individual to participate. The supervising attorney must be present at any hearing in which a legal intern, law student, or paralegal participates. The written consent must include the name of the veteran, or the name of the appellant if other than the veteran (e.g.,

a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable VA file number; the name of the attorney-at-law; the consent of the appellant for the use of the services of legal interns, law students, or paralegals and for such individuals to have access to applicable VA records; and the names of the legal interns, law students, or paralegals who will be assisting in the case. The signed consent must be submitted to the agency of original jurisdiction and maintained in the claimant's file. In the case of appeals before the Board in Washington, DC, the signed consent must be submitted to: Director, Management and Administration (01E), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings before a Member or Members of the Board at VA field facilities, the consent must be presented to the presiding Member of the hearing.

(4) Unless revoked by the claimant, consent provided under paragraph (c)(2) or paragraph (c)(3) of this section shall remain effective in the event the claimant's original attorney is replaced as attorney of record by another member of the same law firm or an attorney employed by the same legal services office.

**Note to §14.629:** A legal intern, law student, paralegal, or veterans service organization support-staff person, working under the supervision of an individual designated under §14.631(a) as the claimant's representative, attorney, or agent, may qualify for read-only access to pertinent Veterans Benefits Administration automated claims records as described in §§1.600 through 1.603 in part 1 of this chapter.

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 2900-0018 and 2900-0605.)

[53 FR 52421, Dec. 28, 1988, as amended at 55 FR 38057, Sept. 17, 1990; 61 FR 7216, Feb. 27, 1996; 68 FR 8545, Feb. 24, 2003; 71 FR 28586, May 17, 2006; 72 FR 58012, Oct. 12, 2007; 73 FR 29871, May 22, 2008]

**Supplement *Highlights* references:** 81(1), 83(3).

**ANNUAL CERTIFICATION OF GOOD STANDING**

In compliance with 38 C.F.R. § 14.629(b)(4) the undersigned hereby certifies that (s)he is in good standing in every jurisdiction in which (s)he is admitted. Further, (s)he is admitted to practice in the following jurisdictions:

Name of Court, Bar, Federal Agency, or Court	Date admitted or first appeared	Identification number if any

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

**CLE REPORT**

(a)

Report for First Anniversary Year

In compliance with 38 C.F.R. § 14.629(b)(iii) the undersigned hereby certifies the following:

I was initially accredited by the VA on \_\_\_\_\_

I completed 3 hours of qualifying post accreditation CLE within the first 12 month period in that on the following dates I completed the following NOVA Seminar CLE course(s) which have been approved for CLE credits by various State Bar Associations and State Courts:

Date completed	Course location	Course	Credits approved

(b)  
Report for Odd Numbered Anniversary Years, Other than the First

In compliance with 38 C.F.R. § 14.629(b)(iv) the undersigned hereby certifies the following:

I was initially accredited by the VA on \_\_\_\_\_

I completed 3 hours of qualifying post accreditation CLE within the past two years in that on the following dates I completed the following NOVA Seminar CLE course(s) which have been approved for CLE credits by various State Bar Associations and State Courts:

Date completed	Course location	Course	Credits approved

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

Must be sent via *email* in Adobe Acrobat PDF Format

Email to: [ogcaccréditationmailbox@va.gov](mailto:ogcaccréditationmailbox@va.gov)

Fax to: (202) 495-5457

Mail to: Office of General Counsel (022D)  
Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, DC 20420

THREE YEAR CLE REPORT

In compliance with 38 C.F.R. § 14.629(b)(iv) the undersigned hereby certifies the following:

I was initially accredited by the VA on \_\_\_\_\_

I completed 3 hours of qualifying post accreditation CLE within the past three years in that on the following dates I completed the following NOVA Seminar CLE course(s) which have been approved for CLE credits by various State Bar Associations and State Courts:

Date completed	Course location	Course	Credits approved

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_



## APPLICATION FOR ACCREDITATION AS A CLAIMS AGENT OR ATTORNEY

**INSTRUCTIONS:** Please provide the applicable personal and employment data, then read each question and provide complete answers to all questions that apply to you. If additional space is needed, please attach a supplementary page(s). After providing all of the requested information, sign and date your application. Unsigned or incomplete applications will not be processed. Send completed applications to: Department of Veterans Affairs, Office of the General Counsel (022D), 810 Vermont Avenue, NW, Washington, D.C. 20420. After an affirmative determination of character and fitness for practice before the VA, claims agent applicants must achieve a score of 75 percent or more on a written examination administered VA as a prerequisite to accreditation. Claims agent applicants will be given written instructions for arranging to take the examination if initial eligibility is established. Attorney applicants must be in good standing with a State bar and are not required to take an examination administered by VA as a prerequisite to accreditation. Denials of initial eligibility for accreditation as a claims agent or attorney are final and are not subject to appeal, but applicants may reapply.

1. LAST NAME - FIRST NAME - MIDDLE NAME	2A. HOME ADDRESS <i>(street, city, state, ZIP Code)</i>	2B. PHONE NUMBER <i>(Including area code)</i>
		2C. E-MAIL ADDRESS <i>(If available)</i>
3A. EMPLOYMENT STATUS  <input type="checkbox"/> EMPLOYED <i>(Complete Item 3B)</i> <input type="checkbox"/> UNEMPLOYED <i>(Skip Item 3B)</i> <input type="checkbox"/> SELF-EMPLOYED <i>(Skip Item 3B)</i> <input type="checkbox"/> STUDENT <i>(Skip Item 3B)</i>	3B. WORK ADDRESS <i>(street, city, state, ZIP Code)</i>	5. PLACE OF BIRTH <i>(City, State, Country)</i>
		6. BRANCH OF SERVICE
		7. CHARACTER OF DISCHARGE
	4. DATE OF BIRTH <i>(Month, day, year)</i>	8. LIST DATES OF ALL ACTIVE MILITARY SERVICE

**9. EMPLOYMENT** *(Provide information for past five years - use additional sheets if necessary)*

A. EMPLOYER NAME AND ADDRESS <i>(street, city, state, ZIP Code)</i>	B. EMPLOYER PHONE NO. <i>(Include area code)</i>	C. POSITION TITLE	D. EMPLOYMENT DATES <i>(Month/Day/Year)</i>	E. NAME OF SUPERVISOR
	EXTENSION:			
	EXTENSION:			
	EXTENSION:			

**10. EDUCATION** *(Provide information for high school graduation and list all colleges or universities attended and degrees received)*

A. NAME AND ADDRESS OF INSTITUTION <i>(street, city, state, ZIP Code)</i>	B. DATES ATTENDED <i>(Month/Year)</i>	C. DEGREE RECEIVED/MAJOR

11A. ARE YOU CURRENTLY A MEMBER IN GOOD STANDING OF THE BAR OF THE HIGHEST COURT OF A STATE OR TERRITORY OF THE UNITED STATES?  <input type="checkbox"/> YES <input type="checkbox"/> NO	11B. IF "YES," LIST EACH JURISDICTION IN WHICH ADMITTED, THE DATE OF ADMISSION, AND MEMBERSHIP OR REGISTRATION NUMBER.		
	JURISDICTION IN WHICH ADMITTED	DATE OF ADMISSION	MEMBERSHIP OR REGISTRATION NO.
12A. ARE YOU CURRENTLY ADMITTED TO PRACTICE BEFORE ANY STATE OR FEDERAL AGENCY OR ANY FEDERAL COURT?  <input type="checkbox"/> YES <input type="checkbox"/> NO	12B. IF "YES," LIST EACH AGENCY OR FEDERAL COURT TO WHICH ADMITTED, THE DATE OF ADMISSION, AND MEMBERSHIP OR REGISTRATION NUMBER.		
	AGENCY IN WHICH ADMITTED	DATE OF ADMISSION	MEMBERSHIP OR REGISTRATION NO.

**BACKGROUND INFORMATION:** Truthfulness and candor are essential elements of good moral character and reputation relevant to practice before the Department of Veterans Affairs. It is in your best interest; therefore, to provide the Office of the General Counsel with all available information in responding to the questions asked below. *For each question answered "YES," provide a detailed statement setting forth all relevant facts and dates along with copies of relevant documents.*

Your responses must be updated as necessary prior to your accreditation. Failure to disclose the requested information may result in denial of accreditation under 38 C.F.R. § 14.629 or in disciplinary proceedings under 38 C.F.R. § 14.633 if you are already accredited.

For questions 13 through 15 your answers should include convictions resulting from a plea of nolo contendere (*no contest*), but omit (1) traffic fines of \$300 or less, (2) any violation of law committed before your 16th birthday, and (3) any conviction for which the record was expunged under Federal or state law.

13A. HAVE YOU EVER BEEN CONVICTED, IMPRISONED, SENTENCED TO PROBATION OR PAROLE? <i>(Include felonies, firearms or explosives violations, misdemeanors, and all other offenses.)</i>  <input type="checkbox"/> YES <input type="checkbox"/> NO	13B. IF "YES," PROVIDE THE DATE, EXPLANATION OF THE VIOLATION, PLACE OF OCCURRENCE, AND THE NAME AND ADDRESS OF THE MILITARY AUTHORITY OR COURT INVOLVED.
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14A. HAVE YOU EVER BEEN CONVICTED, BY A MILITARY COURT-MARTIAL? <i>(If no military service, answer "NO.")</i>  <input type="checkbox"/> YES <input type="checkbox"/> NO	14B. IF "YES," PROVIDE THE DATE, EXPLANATION OF THE VIOLATION, PLACE OF OCCURRENCE, AND THE NAME AND ADDRESS OF THE MILITARY AUTHORITY OR COURT INVOLVED.
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15A. ARE YOU NOW UNDER CHARGES FOR ANY VIOLATION OF LAW?  <input type="checkbox"/> YES <input type="checkbox"/> NO	15B. IF "YES," PROVIDE THE DATE, EXPLANATION OF THE VIOLATION, PLACE OF OCCURRENCE, AND THE NAME AND ADDRESS OF THE MILITARY AUTHORITY OR COURT INVOLVED.
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16. HAVE YOU EVER BEEN SUSPENDED, EXPELLED OR ASKED TO RESIGN OR WITHDRAW FROM ANY EDUCATIONAL INSTITUTION, OR HAVE YOU RESIGNED OR WITHDRAWN FROM ANY SUCH INSTITUTION IN TIME TO AVOID DISCIPLINE, SUSPENSION, OR EXPULSION FOR CONDUCT INVOLVING DISHONESTY, FRAUD, MISREPRESENTATION, OR DECEIT?  
 YES       NO

17. HAVE YOU EVER BEEN DISCIPLINED, REPRIMANDED, SUSPENDED OR TERMINATED IN ANY JOB FOR CONDUCT INVOLVING DISHONESTY, FRAUD, MISREPRESENTATION, DECEIT, OR ANY VIOLATION OF FEDERAL OR STATE LAWS OR REGULATIONS?  
 YES       NO

18. HAVE YOU EVER RESIGNED, RETIRED FROM, OR QUIT A JOB WHEN YOU WERE UNDER INVESTIGATION OR INQUIRY FOR CONDUCT WHICH COULD HAVE BEEN CONSIDERED AS INVOLVING DISHONESTY, FRAUD, MISREPRESENTATION, DECEIT, OR VIOLATION OF FEDERAL OR STATE LAWS OR REGULATIONS, OR AFTER RECEIVING NOTICE OR BEING ADVISED OF POSSIBLE INVESTIGATION, INQUIRY, OR DISCIPLINARY ACTION FOR SUCH CONDUCT?  
 YES       NO

19. HAVE YOU EVER FUNCTIONED AS A REPRESENTATIVE, AGENT, OR ATTORNEY BEFORE A STATE OR FEDERAL DEPARTMENT OR AGENCY?  
 YES       NO

20. HAVE YOU EVER BEEN REPRIMANDED, SUSPENDED, OR BARRED FROM PRACTICE BEFORE ANY COURT, BAR, OR FEDERAL OR STATE AGENCY, OR HAVE YOU RESIGNED MEMBERSHIP IN THE BAR OF ANY COURT, OR FEDERAL OR STATE AGENCY TO AVOID REPRIMAND, SUSPENSION, OR DISBARMENT FOR CONDUCT INVOLVING DISHONESTY, FRAUD, MISREPRESENTATION, OR DECEIT?

YES  NO

21. HAVE YOU EVER APPLIED FOR ACCREDITATION BY THE DEPARTMENT OF VETERANS AFFAIRS AS A REPRESENTATIVE OF A VETERANS SERVICE ORGANIZATION, AGENT, OR ATTORNEY?

YES  NO

22. IF YOU WERE PREVIOUSLY ACCREDITED AS A REPRESENTATIVE OF A VETERANS SERVICE ORGANIZATION, WAS THAT ACCREDITATION TERMINATED OR SUSPENDED AT THE REQUEST OF THE ORGANIZATION?

YES  NO

23A. DO YOU HAVE ANY CONDITION OR IMPAIRMENT (SUCH AS SUBSTANCE ABUSE, ALCOHOL ABUSE, OR A MENTAL, EMOTIONAL, NERVOUS, OR BEHAVIORAL DISORDER OR CONDITION) THAT IN ANY WAY CURRENTLY AFFECTS, OR, IF UNTREATED OR NOT OTHERWISE ACTIVELY MANAGED, COULD AFFECT YOUR ABILITY TO REPRESENT CLAIMANTS IN A COMPETENT AND PROFESSIONAL MANNER?

YES  NO

23B. IF YOU ANSWERED "YES," TO ITEM 23A, PLEASE DESCRIBE THE CONDITION OR IMPAIRMENT, AND ANY TREATMENT YOU RECEIVED IN THE PAST YEAR OR RECEIVE NOW. IF YOU HAVE BEEN UNDER THE CARE OR SUPERVISION OF A HEALTH-CARE PROFESSIONAL, SUBMIT A STATEMENT BY THE HEALTH-CARE PROFESSIONAL SPECIFYING YOUR CURRENT DIAGNOSIS, TREATMENT REGIMEN, AND PROGNOSIS, AND ITS BEARING ON YOUR FITNESS TO REPRESENT CLAIMANTS BEFORE THE DEPARTMENT OF VETERANS AFFAIRS.

24A. DO YOU HAVE ANY PHYSICAL LIMITATIONS WHICH WOULD INTERFERE WITH YOUR COMPLETION OF A WRITTEN EXAMINATION ADMINISTERED UNDER THE SUPERVISION OF A VA REGIONAL COUNSEL (Claims agent applicants only)?

YES  NO

24B. IF "YES," PLEASE STATE THE NATURE OF SUCH LIMITATIONS AND PROVIDE DETAILS OF ANY SPECIAL ACCOMMODATIONS DEEMED NECESSARY.

**25. CHARACTER REFERENCES**

(Please provide the full names, addresses, and current phone numbers of three individuals who are not immediate family members and who have personal knowledge of your character and qualifications to serve as a claims agent or attorney.)

NAME	ADDRESS	PHONE NUMBER (Include area code)	RELATIONSHIP TO APPLICANT
		EXTENSION:	
		EXTENSION:	
		EXTENSION:	

**CERTIFICATION:** I CERTIFY THAT the statements and entries on this form are true and correct. (A willfully false statement or certification is a criminal offense and is punishable by law [18 U.S.C. 1001]).

SIGNATURE OF APPLICANT

DATE SIGNED



**PRIVACY ACT INFORMATION:** The information requested on this form is solicited under Section 5904, Title 38, United States Code and Section 14.629(b) of Title 38, Code of Federal Regulations. It will enable VA to determine initial eligibility for accreditation as a claims agent or attorney to represent claimants before VA. Any information on this form may be disclosed outside VA only if authorized under the Privacy Act, including the routine uses identified in the VA system of records, 01VA022, Current and Former Accredited Representative, Claims Agent, Attorney, and Representative, Claims Agent, and Attorney Applicant and Rejected Applicant Records--VA, published in the Federal Register. Routine disclosures may be made for the following purposes: civil or criminal law enforcement or investigation; congressional communications; communications relevant to the delivery of VA benefits; verification of identity and status; litigation conducted by the Department of Justice; and communication with employing entities and governmental licensing organizations concerning information relevant to employment or licensing of a prospective, present, or former representative, claims agent or attorney. Providing the requested information is voluntary; however, failure to furnish information may delay or prevent action on the application.

**RESPONDENT BURDEN:** VA may not conduct or sponsor, and respondent is not required to respond to this collection of information unless it displays a valid OMB Control Number. Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments regarding this burden estimate or any other aspect of this collection of information send your comments to VA Clearance Officer (005R1B), 810 Vermont Avenue, NW, Washington, D.C. 20420. Please do not send applications for accreditation to this address.

VA FORM 21a, MAY 2007, PAGE 4



## AUTHORIZATION AND CONSENT TO RELEASE INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)

**RESPONDENT BURDEN:** We need this information to obtain your treatment records. Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to review the instructions, find the information and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.whitehouse.gov/omb/library/OMBINVA.EPA.html#VA](http://www.whitehouse.gov/omb/library/OMBINVA.EPA.html#VA). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

IF YOU HAVE ANY QUESTIONS ABOUT THIS FORM, CALL VA TOLL-FREE AT 1-800-827-1000  
 (TDD 1-800-829-4833 FOR HEARING IMPAIRED).

### SECTION I - VETERAN/CLAIMANT IDENTIFICATION

1. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN <i>(Type or print)</i>	2. VETERAN'S VA FILE NUMBER
3. CLAIMANT'S NAME <i>(If other than Veteran)</i> LAST NAME, FIRST, MIDDLE	4. VETERAN'S SOCIAL SECURITY NUMBER
5. RELATIONSHIP OF CLAIMANT TO VETERAN	6. CLAIMANT'S SOCIAL SECURITY NUMBER

### SECTION II - SOURCE OF INFORMATION

7A. LIST THE NAME AND ADDRESS OF THE SOURCE SUCH AS A PHYSICIAN, HOSPITAL, ETC. <i>(Include ZIP Codes, and also a telephone number, if available)</i>	7B. DATE(S) OF TREATMENT, HOSPITALIZATIONS, OFFICE VISITS, DISCHARGE FROM TREATMENT OR CARE, ETC <i>(Include month and year)</i>	7C. CONDITION(S) <i>(List illness, injury, etc. pertinent to your claim)</i>

8. COMMENTS:

**YOU MUST SIGN AND DATE THIS FORM ON PAGE 2 AND CHECK THE APPROPRIATE BLOCK IN ITEM 9C.**

**SECTION III - CONSENT TO RELEASE INFORMATION**

**READ ALL PARAGRAPHS CAREFULLY BEFORE SIGNING. YOU MUST CHECK THE APPROPRIATE STATEMENT UNDERLINED IN PARENTHESES IN PARAGRAPH 9C.**

9A. Privacy Act Notice: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28 Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is voluntary. However, if the information including your Social Security Number (SSN) is not furnished completely or accurately, the health care provider to which this authorization is addressed may not be able to identify and locate your records, and provided a copy to VA. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect.

9B. I, the undersigned, hereby authorize the hospital, physician or other health care provider or health plan shown in Item 7A to release any information that may have been obtained in connection with a physical, psychological or psychiatric examination or treatment, with the understanding that VA will use this information in determining my eligibility to veterans benefits I have claimed. I understand that the health care provider or health plan identified in Item 7A who is being asked to provide the Veterans Benefits Administration with records under this authorization may not require me to execute this authorization before it will, or will continue to, provide me with treatment, payment for health care, enrollment in a health plan, or eligibility for benefits provided by it. I understand that once my health care provider sends this information to VA under this authorization, the information will no longer be protected by the HIPAA Privacy Rule, but will be protected by the Federal Privacy Act, 5 USC 552a, and VA may disclose this information as authorized by law. I also understand that I may revoke this authorization, at anytime (except to the extent that the health care provider has already released information to VA under this authorization) by notifying the health care provider shown in Item 7A. Please contact the VA Regional Office handling your claim or the Board of Veterans' Appeals, if an appeal is pending, regarding such action. If you do not revoke this authorization, it will automatically end 180 days from the date you sign and date the form (Item 10C).

9C. I  (AUTHORIZE)  (DO NOT AUTHORIZE) the source shown in Item 7A to release or disclose any information or records relating to the diagnosis, treatment or other therapy for the condition(s) of drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), sickle cell anemia or psychotherapy notes. IF MY CONSENT TO THIS INFORMATION IS LIMITED, THE LIMITATION IS WRITTEN HERE:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10A. SIGNATURE OF VETERAN/CLAIMANT OR LEGAL REPRESENTATIVE	10B. RELATIONSHIP TO VETERAN/CLAIMANT <i>(If other than self, please provide full name, title, organization, city, State and ZIP Code. All court appointments must include docket number, county and State)</i>	10C. DATE
--	--	-----------

10D. MAILING ADDRESS <i>(Number and Street or rural route, city, or P.O. State and ZIP Code)</i>	10E. TELEPHONE NUMBER <i>(Include Area Code)</i>
--	--

The signature and address of a person who either knows the person signing this form or is satisfied as to that person's identity is requested below. This is not required by VA but may be required by the source of the information.

11A. SIGNATURE OF WITNESS	11B. DATE
---------------------------	-----------

11C. MAILING ADDRESS OF WITNESS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_







## **Faculty Biographies (Alpha Order)**





- Commercial



[Home](#) > [Our Attorneys](#) > Nancy Y. Morgan

**Nancy Y. Morgan** | Director of Legal Operations

Nancy Morgan joined the Finkelstein & Partners law firm in early 1987, after passing the PA and NY Bar. Subsequently she passed the NJ Bar. She took over 45 verdicts during her first four years.

### **Verdicts, Arbitrations, Mediations and Settlements**

Four 1st grade boys were sexually molested by an unsupervised 14 year old student in a bathroom near the principals office. The parents of the boys came to us, and we brought a lawsuit against the perpetrator and the school. The school district asked the judge to dismiss the case, but on November 7, 2011 the judge found that the actions of the school should be evaluated by a jury.

A student at a school for troubled boys was acting out and a teacher grabbed him, causing him to fall and fracture his leg. We recently settled this matter at Mediation for fair compensation for this young boy.

Schools have a mandatory duty to report suspected child abuse. A little girl was being sexually abused by her mother's boyfriend, and the parent of another student reported it to school officials. The school failed to report it to the proper agency and the abuse continued for 9 more months until the child's mother discovered it. The administrators of the school were terminated. Finkelstein and Partners brought an action against the school. We are currently preparing a brief for the NY state Appellate Division 2nd Department on this issue.

Poughkeepsie woman delivered a 7 month, stillborn child at the Westchester Hospital. When she asked for the remains, she learned the hospital lost the fetus. The jury awarded her damages for the emotional distress.

44 yr old female was in a head-on motor vehicle collision and suffered bulging lumbar discs in her back. The jury awarded her 150K.

30 yr old plaintiff was stopped and defendant hit rear of his car. He sustained a lumbar bulging disc and treated primarily with chiropractor. The jury awarded him 125K.

Nancy's husband recently retired from the Army after serving 24 yrs. His service required Nancy to transfer from New York in 1991. During the five years she spent out of the state she worked at:

Colorado Interstate Gas Company (Coastal Corp) in Colorado Springs, Colorado. She was the senior trial attorney and handled litigation including oil and gas litigation, bankruptcy issues, ad valorem tax matters, libel, slander and employment issues.

Westinghouse in Pittsburgh, Pa. where she developed the national litigation defense for asbestos products used in ship building called Fire Resistant Decorative Micarta.

Nancy returned to New York when her husband was selected as the Special Assistant to the Commandant at West Point in 1996. She returned to Finkelstein & Partners and continued taking verdicts and settling cases.

Nancy traveled to Syracuse to take a verdict on a case that had been tried by another attorney, lost and appealed. This time the jury awarded her client 250K for a thoracic surgery.

Nancy attended an arbitration on a very unique injury that required the removal of a rib and received a decision by the arbitrator of 300K.

900K Settlement during trial-elementary school student was sexually molested while at school

300K Settlement-was negotiated on behalf of a 51 yr old Dutchess County woman who while operating a motor vehicle making a left hand turn, was struck by a vehicle coming from the opposite direction but in an improper lane. As a result of the collision, our client sustained a fractured elbow, a tear to the ligament in her knee and a serious back injury. Case settled for policy limits.

3M awarded-an 83 yr old Orange County woman from Port Jervis Housing Authority for their negligence in not repairing a broken window, which allowed a rapist to harm plaintiff.

2M after jury selection-to a Johnson County woman who was blinded in one eye during a school field event. She was hit with a water balloon that was catapulted from a goal post. The school district agreed to pay 2 million in damages.

285K Arbitration award-a 36 yr old Rensselaer County woman was awarded damages at arbitration for a spinal injury with surgery that resulted from a rear end motor vehicle accident.

275K Settlement-a 36 yr old Orange County woman fell on ice in a parking lot and sustained an injury to her knee requiring surgery.

125K Settlement-from lack of security at an apartment complex. The security guard was given a photo of the individual and a copy of the restraining order against the person who attacked the woman in her apartment.

Confidential Settlement-with ski slope when the lift attendant failed to stop the lift timely and the 35 yr old Dutchess County woman fell, fracturing several bones.

## **In the News**

[poughkeepsiejournal.com](http://poughkeepsiejournal.com)

**Law firm names director of operations** — Andrew G. Finkelstein, managing partner of Finkelstein & Partners LLP, Newburgh, announced that attorney Nancy Morgan has been named director of legal operations. This newly created position will support the firm's commitment to improve client services.

Morgan will continue her role as the partner overseeing the veterans service group and will supervise the firm's mentoring and continuing legal education programs.

Headquartered in Newburgh, the firm has been serving clients for more than 50 years with offices in New York and New Jersey.

**Areas of Practice**

Personal Injury  
Veterans Disability  
Negligent Supervision/Security  
Ski Liability Cases

**Education**

University of Louisville  
Law School, J.D.

**Admissions**

New York

Pennsylvania

New Jersey

United States Court of Appeals for

Veterans Claims (CAVC).

US Court of Appeals 10th Circuit

US District Court of NJ

**Memberships**

National Organization of Veterans Advovates.

# Felicia Pasculli Esq.

Location:

Bay Shore, New York

Felicia Pasculli is nationally certified as a CELA (Certified Elder Law Attorney) by the National Elder Law Foundation. She was appointed as Chair to the newly created Veterans' Benefits Committee of the Elder Law Section of the New York State Bar Association. She is also founder of the Long Island Alzheimer's Foundation, and Chair of its Legal Advisory Board.

Ms. Pasculli is a member of the National Academy of Elder Law Attorneys, the New York State Bar Association, and the Suffolk County Bar Association. She also founded the Family Council at the Northport VA Medical Center's Nursing Home. Ms. Pasculli is a sustaining member of NOVA (National Organization of Veterans Advocates).

## Litigation Percentage

- 30% of Practice Devoted to Litigation

## Certified Legal Specialties

- Certified Elder Law Attorney, New York State Bar Association

## Bar Admissions

- New York, 1994

## Education

- **City University of New York School of Law at Queens College, Flushing, New**

**York - 1993**

## Professional Associations and Memberships

- National Academy of Elder Law Attorneys, Member
- New York State Bar Association, Member
- Suffolk County Bar Association, Member
- New York State Bar Association, Elder Law Section, Chair, Veterans' Benefits

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<http://www.pascullilaw.com/Our-Attorneys-and-Staff/Felicia-Pasculli.shtml> 10/15/2013

## Elder Law & Special Needs

### Practice of Felicia Pasculli, Esq.

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