



29 July, 2013

Director, Regulations Management
Department of Veterans Affairs
810 Vermont Ave. NW., Room 1068
Washington, DC 20420
submitted via website, www.regulations.gov

Re: OMB Control No. 2900-NEW (Elbow and Forearm Conditions Disability Benefits Questionnaire)

Docket Number: VA-2013-VACO-0001

Swords to Plowshares is a recognized veterans service organization that provides free attorney representation to veterans who seek discharge review or Department of Veterans' Affairs (DVA) benefits, along with mental health counseling, case management, employment and training, housing, and other assistance. Our Legal unit includes a small staff of lawyers with over 35 years of experience in successfully representing veterans in benefits claims adjudication. We are therefore readily qualified to comment on the proposed Disability Benefits Questionnaire (DBQ) for collecting medical evidence related to compensation claims.

SUMMARY OF COMMENT

We applaud the VA's initiative to provide a transparent method for collecting complete, competent medical evidence. However, the DBQ as proposed does not fulfill this promise because it does not solicit medical nexus evidence. Medical nexus evidence is required for most of the claims where a DBQ will be used. Omitting a solicitation for this evidence fails to satisfy the VA's purpose behind the

DBQ, fails to provide full assistance to claimants, and undermines the VA's goal of creating an efficient, veteran-centric claims process. These shortcomings violate statutory duties and common sense. We urge the VA to modify this DBQ – and all DBQs that are not expressly limited to rating determinations – by incorporating a medical nexus question or by issuing a DBQ dedicated to medical nexus evidence.

Part I of this Comment shows that a DBQ without a medical nexus question solicits insufficient information to decide most claims for which the DBQ will be used. Part II argues that this shortcoming prevents the VA from certifying this form for use. Part III argues that this shortcoming contradicts the VA's duty to assist and its stated policy goals. Part IV presents two possible remedies for this omission.

DISCUSSION

I. Because the proposed DBQ does not include a medical nexus question, it solicits insufficient information to decide most claims for which a DBQ will be used.

A. Medical nexus evidence is a necessary element of most compensation claims

Claimants must establish service connection in order to obtain compensation for any disability. 38 C.F.R. §3.4(a). The only compensation claims that do not require a service connection determination are claims to increase the rating of a condition that is already service-connected. DVA data provides an estimate of the percentage of claims that require a service connection determination. The June 22, 2013 Monday Morning Workload Report report states that there are currently 749,000 pending compensation claims in the “Entitlement” category, all of which will require a service connection determination, and that there are 356,000 pending compensation claims in the “Award Adjustment” category, some of which are only rating increase claims. Available at <http://www.vba.va.gov/REPORTS/mmwr/2013/072013.xls>. Therefore, at least 68% of pending compensation claims require a service connection determination.¹

Most service connection determinations require medical nexus evidence. “Service connection is established when there is ... medical evidence of a nexus between the in-service injury and the current disability.” 38 U.S.C. §5107(a). The nexus requirement may be satisfied by evidence showing “medical or in some circumstances lay evidence of a nexus between the present disability and postservice symptomatology.” 38 C.F.R. §3.303(b). Although the nexus decision is made by the VBA adjudicator,

¹ The DVA does not provide data that explicitly and unambiguously shows the percentage of claims that require service connection determination. The analysis provided here is only an estimate based on the data that the DVA does provide. The Monday Morning Workload Report includes additional categories of claims that may include both entitlement and ratings increase claims, such as “Program Review”, “Other”, “Accrued” and “Appeals.” Based on the content of those categories, the actual percentage of claims that require service connection determination may be higher or lower than the estimate provided here. However, these additional categories are relatively small in comparison with the “Entitlement” and “Award Adjustment” categories, so they probably do not substantially change the estimate.

the adjudicator's decision must be based on independent medical evidence provided by a competent medical professional. Colvin v. Derwinski, 1 Vet. App. 171 (1991).

There are limited exceptions to this rule. Medical nexus evidence is not required where: (1) the criteria of a statutory presumption are satisfied, 38 C.F.R. 3.307-313; (2) there is a claim for a chronic condition that is diagnosed in service 38 C.F.R. 3.303(b); or (3) in limited circumstances where lay evidence is competent to show a medical nexus. The conditions that fall into the first two categories are enumerated. 38 C.F.R. 3.307-309, Walker v. Shinseki, 11-7184 (Fed. Cir. Feb. 21, 2013). The conditions that fall into the third category are not enumerated but are limited by regulation and caselaw. 38 C.F.R. 3.303(b), Jandreau v. Nicholson, 492 F.3d 1372 (Fed. Cir. 2007).

Because the large majority of compensation claims require establishing service connection, and because most service connection determinations require medical nexus evidence, it is safe to conclude that medical nexus evidence is a necessary element of most compensation claims.

B. DBQs that do not solicit medical nexus information provide insufficient information to decide most claims where a DBQ will be used.

Because almost all DBQs are intended for use in initial, new, or reopened claims where service connection is an issue, and because medical nexus evidence is required in most claims where service connection is an issue, DBQs that do not solicit medical nexus evidence will provide insufficient information to decide most claims where a DBQ will be used.

There is only one DBQ whose applicability is limited to rating decisions, where service connection is not an issue. This is VA Form 21-0960P3 "Review Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire." That form specifically states that it is only for use in subsequent rating evaluations, not for initial evaluations to determine service connection. The VA has a separate DBQ, VA Form 21-0960P4, that is intended for initial evaluations to determine service connection. See DVA, "Disability Benefits Questionnaires: Frequently Asked Questions" http://www.benefits.va.gov/COMPENSATION/dbq_FAQs.asp (accessed 7/1/13). Every other DBQ is intended for use in evaluations to support original, new, or reopened claims where service connection is an issue.

C. Because the proposed DBQ does not solicit medical nexus evidence, it will collect insufficient information to decide most claims where it will be used.

The proposed DBQ is not limited to rating decisions. It is intended for use in original, new and reopened claims where service connection is an issue. However, the proposed DBQ does not include a question soliciting medical nexus evidence. The proposed DBQ does include a "Remarks" section where a medical practitioner may voluntarily add and information, including information relevant to a nexus

determination. However it is likely that a medical practitioner would provide no nexus information, or insufficient nexus information, without a specific solicitation. Therefore the proposed DBQ will solicit insufficient medical evidence to decide most claims where the DBQ will be used.

II. A DBQ that does not include a request for medical nexus evidence fails the statutory requirements of 44 U.S.C. §3506.

The DVA is required to solicit public comments that “enhance the quality, utility, and clarity” of all proposed information collection forms. 44 U.S.C. §3506(c)(2)(iii). The DVA must then “certify” that the proposed form is “necessary for the proper performance ... of the agency”; that it “is not unnecessarily duplicative” and that it “reduces ... the burden on persons who shall provide information” through “consolidation” of reporting requirements; and that it employs “coherent and unambiguous terminology.” 44 U.S.C. §3506(c)(3). The certification must be supported by the record, and this certification must discuss any public comments relating to the proposed forms. *Id.* We believe that the comments below will prevent the DVA from certifying the proposed form.

A. A DBQ that solicits insufficient medical evidence to decide a claim does not fulfill its stated purpose, and therefore frustrates the “proper performance” of the agency.

The DVA must certify that the form is necessary for the “proper performance ... of the agency.” 44 U.S.C. §3506(c)(3). We assume that a minimum criterion of “proper performance” is that the form fulfills its stated purpose.

The purpose of the DBQ is to provide sufficient medical information to decide a compensation claim. Benefits Adjudication Manual M21-1MR Part III.iv.3.A.1.g (“Any DBQ listed ... for public use ... may be completed by a claimant’s treatment provider as a substitute for a VA examination.”) (emphasis added); VHA Directive 2013-002 ¶2(b)(1) (2013) (“DBQs are a documentation tool that provides sufficient medical evidence needed for disability claims adjudication.”) (emphasis added); VHA Directive 2010-045 ¶ 2(b) (2010) (“DBQs are ... designed to ... succinctly provid[e] precise medical evidence needed ... to make decisions on Veterans’ disability benefits claims.”) (emphasis added); *Id.* ¶ 2(b)(1) (“DBQs are designed to ensure adequate reports”) (emphasis added).

Because the proposed DBQ does not solicit medical nexus information, it does not satisfy its purpose of collecting adequate information to decide a claim. As discussed above, DBQs are intended for use in original, new and reopened compensation claims where service connection is an issue, and where most of those service connection issues require medical nexus evidence. Therefore DBQs will only provide sufficient medical evidence to decide a claim if they include medical nexus evidence. A DBQ that fails to solicit medical nexus evidence would not fulfill the form’s purpose of providing sufficient evidence to decide the claim.

A form that does not fulfill its stated purpose is not promoting the “proper performance of the agency.” The VA cannot certify this form under the standards of 44 USC §3506 unless it is modified to include a solicitation of medical nexus evidence.

B. A DBQ that solicits insufficient medical nexus evidence fails statutory requirements by creating duplicative, unconsolidated, and burdensome reporting by claimants.

The DVA must certify that the form “is not unnecessarily duplicative” and “reduces ... the burden on persons who shall provide information” through “consolidation” of reporting requirements. 44 U.S.C. §3506(c)(3). We assume that a minimum criterion of these requirements is that the DVA not routinely ask claimants to provide information that the DVA will later request separately through a second examination.

The VBA is required to request a C&P exam when a claimant provides evidence of a current disability and competent evidence of an in-service incurrence or aggravation, but where the evidence is nevertheless insufficient to decide a claim. 38 USC §5103A(d)(2). The proposed DBQ does not include a solicitation for medical nexus evidence even though medical nexus evidence will be required for most claims where the form will be used. Therefore a veteran who submits a DBQ for an original, new or reopened claim will always need to perform a second C&P examination, unless the claim falls into one of the few exceptions where nexus evidence is not necessary. The VHA will perform this C&P examination using the same DBQ that the veteran had originally used, obtaining all of the same information that the veteran had already submitted. VHA Directive 2010-045 ¶3.

The DBQ has limited “utility” because it does not avoid the requirement for an additional examination. It is true that a DBQ without nexus evidence has some utility because it helps the veteran satisfy the initial “well grounded claim” standard, triggering the VA’s duty to request nexus evidence. However, the DBQ would certainly be more useful if it also provided information sufficient to decide the claim so that an additional examination was not necessary.

Because the DVA knows that it will have to request a second examination in most cases, a DBQ without medical nexus evidence is unnecessarily duplicative. The veteran who submits a DBQ without medical nexus evidence will routinely and predictably require a second examination to obtain medical nexus evidence. This second examination requires time and effort by the veteran and the VHA. This is an unnecessary burden. By producing DBQs that fail to ask a necessary question, and knowing that the VA has an obligation to conduct follow-up examinations if the submitted evidence is insufficient to decide the claim, the VA is foreseeably creating a requirement for veterans who use DBQs to undergo duplicative examinations. There are certainly many situations where the VBA adjudicator will need to request a second examination even though the claimant provided medical nexus evidence. Therefore a

DBQ with a medical nexus question will not guarantee that second C&P exams are avoided. However, the VA should be minimizing this possibility, not mandating it.

The DVA cannot certify that the DBQ is “not unnecessarily duplicative” and that it minimizes the veterans’ “burden” through “consolidation” unless it modifies the DBQ to include a medical nexus question.

C. A DBQ that solicits insufficient medical evidence fails to meet the statutory standard for “coherent and unambiguous terminology” because it misleads veterans as to its utility and purpose.

The DVA must certify that the DBQ employs “coherent and unambiguous terminology.” 44 USC §3506(3). We assume that a minimum criterion of this requirement is that form explains to veterans directly and correctly what the form will achieve.

1. A DBQ without a medical nexus question is incoherent because it is incompatible with contradictory statements and practices of the DVA.

The DVA communicates to claimants through official and unofficial channels that completing the DBQ will provide sufficient evidence to support a claim. The official channels include the publicly-available policy statements cited above, for example the statement that “DBQs are a documentation tool that provides sufficient medical evidence needed for disability claims adjudication.” VHA Directive 2013-002 ¶2(b)(1) (2013) (emphasis added). The DVA provides similar statements directly to claimants. DVA rules require adjudicators to tell veterans that they may submit a DBQ in lieu of attending a VHA Compensation and Pension exam. *Benefits Adjudication Manual* M21-1MR Part III.v.2.A.6.b (“If a denial is based on the claimant’s failure to report for an examination, the decision notice must ... advise the claimant to ... submit a properly executed [DBQ].”). The DVA website explaining the DBQ states: “DBQs allow Veterans and Servicemembers to have more control over the disability claims process by giving them the option of visiting a primary care provider in their community, at their expense, instead of completing a [VHA] evaluation DBQs were developed to streamline the collection of necessary medical evidence.” *Disability Benefits Questionnaires: Frequently Asked Questions* (accessed 1/7/2013) (available at http://www.benefits.va.gov/COMPENSATION/dbq_FAQs.asp) (emphasis added). The official DVA blog called “Vantage Point: Dispatches from the U.S. Department of Veterans Affairs” provided a recent blog post where the author, a VBA employee, tells claimants that “If you have the ability to get your medical provider to fill out the DBQ form, you should. Doing so essentially means that VA only has to gather federal records.” *Getting Your Claim Processed Favorably and Quickly: Some Helpful Hints* (accessed August 1, 2012) (available at <http://www.blogs.va.gov/Vantage/7769/getting-your-claim-processed-favorably-and-quickly-some-helpful-hints/>) (emphasis added).

These statements are false. The DBQ does not provide sufficient evidence to decide most claims; most veterans who use DBQs will not avoid an exam at a VA facility; submitting a DBQ is not an alternative to taking a C&P exam; and having a medical provider complete a DBQ does not mean that the VA only has to gather federal records.

2. Expecting veterans to independently solicit medical nexus evidence is unreasonably ambiguous.

The DVA's unofficial policy is for veterans to solicit medical nexus evidence for the DBQ on their own. The DBQ includes a "Remarks" section where medical nexus information may be provided at the veteran's request or on the examiner's initiative. We rely on this section when using DBQs to solicit medical opinions: when we recommend that the veteran ask a medical professional to complete a DBQ, we send the veteran with a separate letter in which we ask the medical professional to include in the "Remarks" section a medical nexus opinion. The DVA also recommends veterans to do this. One of our staff members recently called the VA toll-free number to ask about submitting medical nexus evidence, and was told by the VA hotline personnel that the veteran should ask the examiner to add medical nexus evidence into the "Remarks" section of a DBQ.

This policy is unreasonable and ambiguous. The DVA is prohibited from expecting veterans to infer the medical nexus requirement. Feliciano v. Shinseki, 2009 U.S. App. Vet. Claims 137 (Lexis, 2009). That case addressed VCAA Notices, not DBQs, however the court made a relevant finding of fact concerning the reasonableness of expecting claimants to infer the need for medical nexus evidence. When notices sent by the DVA were "devoid of any suggestion of the need to submit medical nexus evidence. . . the average claimant could not be expected to derive this meaning." Id. at 10. By that standard, the proposed DBQ is also unreasonably ambiguous. If the DVA requires medical nexus evidence, and if it is willing to accept that evidence on a DBQ, then it should clearly request that information on the form. Expecting veterans to anticipate this requirement, notice that the question is missing from the DBQ, and then specially ask medical examiners to include that information in a "Remarks" section is unreasonable, ambiguous and far too burdensome.

The DVA cannot certify that this form satisfies the requirement for "coherent and unambiguous terminology" if the DVA continues to mislead claimants about the purpose and effect of the DBQ, and if the DVA expects veterans to supplement the form with additional questions for examiners. This can be remedied by changing all public communications to veterans about the purpose and effect of DBQs; or it can be remedied by modifying the DBQ to include a medical nexus question.

III. Because the DBQ omits a medical nexus question, the form violates the DVA's duty to assist and it frustrates the DVA's goal of creating an empowered, veteran-centric claims process.

A. The duty to assist requires that the DVA include a medical nexus question in the DBQ.

The DVA is required to “make reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate the claimant’s claim.” 38 U.S.C. § 5103A(a). Unlike other sub-sections of that statute that only apply once a veteran has shown a threshold level of eligibility, 38 U.S.C. §5103A(b,c,d), the requirement of subparagraph (a) to “make reasonable efforts to assist a claimant in obtaining evidence” applies to prospective claimants. This requirement prohibits the DVA from encouraging prospective claimants to use forms that are so incoherent, unclear or incomplete that they interfere with the veteran’s ability to obtain evidence in support of a claim.

A DBQ without a medical nexus question unreasonably interferes with the veteran’s ability to obtain information necessary to support a claim. The interference occurs because the DVA has expressly stated that the DBQ will solicit sufficient evidence. This is an untrue statement that invites the veteran to waste time and energy developing an incomplete claim. This interference is unreasonable because the remedies to this interference are available, *see* Part IV below. The DVA has already done the admirable work of developing the DBQs. The small remedial burden on the VA, compared with the high burden placed on the claimant by incorrect information and incomplete forms, makes the failure to include a medical nexus question an unreasonable interference.

The violation of the duty to assist is even stronger and more clear in cases where the veteran has already filed a substantially complete claim. Additional duties are triggered once the veteran has supplied basic claim information, such as name, disability, and service record. The VA has a duty to tell the veteran “any information ... necessary to substantiate the claim.” 38 U.S.C. 5103(a), 38 C.F.R. 3.159 (a)(3). When the DVA states that medical nexus evidence is required, but advises the veteran to seek medical evidence on a DBQ that doesn’t solicit medical nexus evidence, then the statements are contradictory and misleading. Misleading or contradictory statements about what information must be collected violates the duty to provide a clear statement of necessary evidence to claimants who have filed substantially complete claims.

B. Issuing DBQs without medical nexus evidence frustrates the DVA's goal of creating a simple, veteran-centric, empowering claims process.

In addition to the statutory violations described above, issuing DBQs without medical nexus information creates a confusing, uncertain, disempowering claims process. The DVA is not giving claimants the information and tools necessary to fully develop their own claims. Worse, the DVA is leading the claimant to believe that the tools available are adequate, and that the veteran who uses those

tools will be taking charge of his or her claim. In fact, the claimant will later learn that their efforts were insufficient, and that there are new obligations that they were not informed of originally.

The DVA is playing “hide the ball” with claimants, withholding from them basic information about how to effectively prepare a successful claim. This is not in anyone’s interest. There is a clear requirement for medical nexus evidence, it is necessary in most cases, and the VBA has already developed forms to solicit the information from VHA examiners, *see* Part IV.B. below. Rather than make these requirements transparent to the claimant, and making adequate tools available to them, the VBA expects to the claimants to anticipate the requirement, notice the gap in the DBQ, and fill that gap on their own initiative. If not, they are sent back to square one with another examination. Playing this game with claimants will not produce an efficient and empowering claims process.

This impact is greatest when veterans use the Fully Developed Claims (FDC) process. The DVA is aggressively encouraging claimants to use the FDC process. This process asks veterans to assume a greater burden for obtaining evidence. *See Fully Developed Claims* (accessed 1/7/2013) (available at <http://www.benefits.va.gov/fdc/>) (“FDC puts you in control, it’s faster and it’s risk free. By filing an FDC, [claimants] take charge of their claim by providing all the evidence at once. By then certifying that there is no more evidence, VA can issue a decision faster.”) (emphasis added). The DVA does not require that evidence be provided on DBQs, however it encourages claimants to do so and it implies that submitting a DBQ will provide sufficient medical evidence to decide the FDC. *Claims and Evidence: Fully Developed Claim Checklist for Disability Compensation* (accessed 7/1/2013) (available at http://www.benefits.va.gov/COMPENSATION/fdc_checklist.asp) (“Use DBQs for Faster Service... These forms ... ensure that VA’s ratings specialists have the precise information to assess claims.”). The VA still retains the duty to obtain federal records and medical evidence, but the burden for evidence collection is shifted back to the veteran. If the DVA places veterans in charge of the process, it must provide complete and accurate information about what information is necessary.

IV. The DVA can remedy this omission by amending the DBQ or by issuing a DBQ specifically for medical nexus evidence.

There are at least two ways to remedy the omission of medical nexus evidence from the DBQ. Unless one of these remedies are taken, the DVA is failing the statutory obligations and policy goals discussed above.

A. Amend the present form to include a medical nexus question

One remedy to this shortcoming is to amend the current form (and all DBQs that are not specifically limited to rating increase claims) to include a medical nexus question. The question should

state the standards clearly and transparently, as is the practice when soliciting other DBQ information. The section should ask related questions that will be necessary to evaluate the competence and probative value of the opinion.

Here is a suggested text:

1. What is the probability that this disability was incurred in or aggravated during the veteran's time in active service?
 - At least as likely as not
 - Less than likely as not
2. What is the mechanism by which this disability was incurred or aggravated during service (eg., in-service injury; aggravation of pre-existing condition; progression of illness diagnosed in service; secondary to a condition incurred in service).
3. Explain how you arrived at this opinion.
4. List the documents you considered to arrive at this opinion.

This formulation solicits and accommodates relevant and sufficient medical nexus evidence for many, and perhaps most, service connection issues.

B. Create a separate DBQ to solicit medical nexus evidence

Alternatively, the DVA could provide a separate DBQ that only relates to medical nexus evidence and can supplement any other DBQ. This is the system that the VBA currently uses when requesting evidence from the Veteran's Health Administration (VHA). The VBA will request that the VHA C&P examiner complete two forms: a DBQ for the relevant disability, and a DBQ for "Medical Opinion," in which the C&P examiner answers questions about service connection. *Benefits Adjudication Manual* M21-1MR, Part III.iv.3.A.9. The DVA has not made the "Medical Opinion" DBQ available publicly. The text of the "Medical Opinion" DBQ is enclosed with this Comment as Appendix A.

The same form could be used by any competent medical professional to ensure that veterans collect sufficient medical evidence to decide a claim. It is possible that some of the less-frequently used questions on the "Medical Opinion" DBQ could be eliminated to make the form simpler. For example, the "Medical Opinion" DBQ includes a question about resolving conflicting medical evidence. It would probably be sufficient to ask the examiner to provide the basis for his or her opinion; if there is conflicting evidence the examiner may discuss it, or the VBA adjudicator may request a follow-up examination. However, there is nothing about the content of the form or the difficulty of the questions being asked that prevent it from being used by medical professionals at the claimant's request.

CONCLUSION

Swords to Plowshares strongly supports the DVA's initiative to provide structured, transparent, complete tools for collecting competent medical evidence. We also support the overarching goals of creating a more efficient and veteran-centered claims process. The omission of medical nexus questions from this proposed DBQ undermines these goals. It also violates statutory requirements of 44 U.S.C. §3506 and 38 U.S.C. §5103-5103A. This omission can be remedied in two ways discussed above, both of which are feasible, lawful, and adequate. Unless it takes one of these measures, the DVA cannot certify this form to the Office of Management and Budget for public use.

Respectfully submitted,

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APPENDIX A : TEXT OF "MEDICAL OPINION DBQ"

MEDICAL OPINION

(to be completed by the examiner)

Name of patient/Veteran: _____SSN: ____

Your patient is applying to the U. S. Department of Veterans Affairs (VA) for disability benefits. VA will consider the information you provide on this questionnaire as part of their evaluation in processing the Veteran's claim.

1. Definitions

Aggravation of preexisting nonservice-connected disabilities. A preexisting injury or disease will be considered to have been aggravated by active military, naval, or air service, where there is an increase in disability during such service, unless there is a specific finding that the increase in disability is due to the natural progress of the disease.

Aggravation of nonservice-connected disabilities. Any increase in severity of a nonservice-connected disease or injury that is proximately due to or the result of a service-connected disease or injury, and not due to the natural progress of the nonservice-connected disease, will be service connected.

2. Evidence review

Was the Veteran's VA claims file reviewed?

0 Yes 0 No

If yes, list any records that were reviewed but were not included in the Veteran's VA claims file:

If no, check all records reviewed:

0 Military service treatment records

0 Military service personnel records

0 Military enlistment examination

0 Military separation examination

0 Military post-deployment questionnaire

0 Department of Defense Form 214 Separation Documents

0 Veterans Health Administration medical records (VA treatment records)

0 Civilian medical records

0 Interviews with collateral witnesses (family and others who have known the veteran before and after military service)

0 No records were reviewed

0 Other: _____

Complete only the sections below that you are asked to complete in the Medical Opinion DBQ request.

3 Medical opinion for direct service connection

Choose the statement that most closely approximates the etiology of the claimed condition.

a. 0 The claimed condition was at least as likely as not (50 percent or greater probability) incurred in or caused by the claimed in-service injury, event, or illness. Provide rationale in section c.

b. 0 The claimed condition was less likely than not (less than 50 percent probability) incurred in or caused by the claimed in-service injury, event, or illness. Provide rationale in section c.

c. Rationale:

4 Medical opinion for secondary service connection

a. 0 The claimed condition is at least as likely as not (50 percent or greater probability) proximately due to or the result of the Veteran's service connected condition. Provide rationale in section c.

b. 0 The claimed condition is less likely than not (less than 50 percent probability) proximately due to or the result of the Veteran's service connected condition. Provide rationale in section c.

c. Rationale:

5. Medical opinion for aggravation of a condition that existed prior to service

a. 0 The claimed condition, which clearly and unmistakably existed prior to service, was aggravated beyond its natural progression by an in-service injury, event, or illness. Provide rationale in section c.

b. 0 The claimed condition, which clearly and unmistakably existed prior to service, was clearly and unmistakably not aggravated beyond its natural progression by an in-service injury, event, or illness. Provide rationale in section c.

c. Rationale:

6. Medical opinion for aggravation of a nonservice connected condition by a service connected condition

a. Can you determine a baseline level of severity of (claimed condition/diagnosis) based upon medical evidence available prior to aggravation or the earliest medical evidence following aggravation by (service connected condition)?
0 Yes 0 No

If "Yes" to question 6a, answer the following:

i. Describe the baseline level of severity of (claimed condition/diagnosis) based upon medical evidence available prior to aggravation or the earliest medical evidence following aggravation by (service connected condition):

ii. Provide the date and nature of the medical evidence used to provide the baseline: _____

iii. Is the current severity of the (claimed condition/diagnosis) greater than the baseline?
0 Yes 0 No

If yes, was the Veteran's (claimed condition/diagnosis) at least as likely as not aggravated beyond its natural progression by (insert "service connected condition")?

0 Yes (provide rationale in section b.)

0 No (provide rationale in section b.)

If "No" to question 6a, answer the following:

i. Provide rationale as to why a baseline cannot be established (e.g. medical evidence is not sufficient to support a determination of a baseline level of severity): _____

ii. Regardless of an established baseline, was the Veteran's (claimed condition/diagnosis) at least as likely as not aggravated beyond its natural progression by (insert "service connected condition")?

0 Yes (provide rationale in section b.)

0 No (provide rationale in section b.)

b. Provide rationale:

7. Opinion regarding conflicting medical evidence

I have reviewed the conflicting medical evidence and am providing the following opinion:

Physician signature: _____ Date: ____
Physician printed name: _____ Phone: ____
Medical license #: _____ Physician address: ____

NOTE: VA may request additional medical information, including additional examinations if necessary to complete VA's review of the Veteran's application.