



NORTH DAKOTA VETERANS AFFAIRS

*"A man who is good enough to shed his blood for his country
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Service Connection in Depth:

Mental Health

Focus on: PTSD

Musculoskeletal

Focus on: Knee



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Post Traumatic Stress Disorder

- **Developing the in-service stressor**
- **PTSD from MST**
- **Filing the Claim**
- **Preparing for the C & P exam**
- **Rating Criteria**



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In-Service Stressors

Decorations as Evidence of Combat:

M21-1MR, Part IV, Subpart ii, Chapter 1, Section D

- Air Force Achievement Medal with "V" Device
- Air Force Combat Action Medal
- Air Force Commendation Medal with "V" Device
- Air Force Cross
- Air Medal with "V" Device
- Army Commendation Medal with "V" Device
- Bronze Star Medal with "V" Device
- Combat Action Badge
- Combat Action Ribbon (Note: Prior to Feb 1969, the Navy Achievement Medal with "V" Device was awarded)
- Combat Aircrew Insignia
- Combat Infantry/Infantryman Badge
- Combat Medical Badge
- Distinguished Flying Cross
- Distinguished Service Cross
- Joint Service Commendation Medal with "V" Device
- Medal of Honor
- Navy Commendation Medal with "V" Device
- Navy Cross
- Purple Heart and/or
- Silver Star



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In-Service Stressors

Non-Combat Related Stressors:

M21-1MR, Part IV, Subpart ii, Chapter 1, Section D

- A plane crash
- A ship sinking
- An explosion
- A rape or assault
- Duty in a burn ward or graves registration unit
- Witnessing the death, injury, or threat to the physical being of another person not cause by the enemy, and
- Actual or threatened death or serious injury, or other threat to one's own physical being not caused by the enemy

The VA will corroborate non-combat related stressors by soliciting primary evidence from the veteran, or from :

- U.S. Army and Joint Services Records Research Center (JSRRC)
- National Archives and Records Administration (NARA)
- Marine Corps Archives and Special Collections (MCASC) or
- Compensation and Pension (C & P) Service Website Links



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What If The Stressor Is Classified Information?

According to VA Fast Letter 09-52, published December 9, 2009, the Veterans Service Representative (VSR) must include the Special Operations development paragraph.

*"If the veteran responds and provides at least the location (city/province and country) where the incident took place and the approximate date (within a two-month period) of the incident, the VSR will route the claims folder to the Military Records Specialist (MRS). The MRS will complete the *Special Operations Forces Incident* document and send it via encrypted email to VAVBASPT/RO/SOCOM."*

In all cases where a Veteran's participation in Special Operations is verified the VA will concede a stressor occurred.



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What About PTSD from MST?

Title 38 U.S. Code 1720D defines MST as:

"Psychological trauma resulting from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the Veteran was serving on active duty, active duty for training, or inactive duty for training."

Sexual harassment is defined as "repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character."



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Evidence for PTSD from MST:

Clear, Primary Evidence:

- Department of Defense Incident Report Forms
- Investigative/Police Reports

“VA knows that events involving sexual trauma are not always officially reported. Therefore, for PTSD claims related to MST, VA has relaxed the evidentiary requirements and looks for ‘markers’... These include, but are not limited to:”

- Records from law enforcement authorities, rape crisis centers, mental health counseling centers, hospitals, or physicians
- Pregnancy tests or tests for STDs
- Statements from family members, roommates, fellow Servicemembers, clergy members, or counselors
- Requests for transfer to another military duty assignment
- Deterioration in work performance
- Substance abuse
- Episodes of depression, panic attacks, or anxiety without an identifiable cause
- Unexplained economic or social behavioral changes
- Relationship issues, such as divorce
- Sexual dysfunction

<https://benefits.va.gov/BENEFITS/factsheets/serviceconnected/MST.pdf>



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FILING THE CLAIM

- Use the 21-526EZ or 21-526b
 - Attach all required standardized forms
 - EX: 21-0781 for PTSD
 - EX: 21-0781a for MST
 - Attach other supporting evidence
 - Lay statements
 - Pictures
 - Studies/Literature
 - BVA Cases
 - "PubMed"
- Your goal is to make it as fully developed as possible!!
- Your goal should be to obtain a C & P exam!!



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Your Veteran reports that he or she has an upcoming C & P exam. Congratulations! How can you help prepare your veteran for the exam?



Mike's Tips and Tricks



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Your Veteran was successful!! Do you think the rating is fair?

General Rating Formula for Mental Disorders

Total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene); disorientation to time or place; memory loss for names of close relatives, own occupation, or own name...100

Occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as: suicidal ideation; obsessional rituals which interfere with routine activities; speech intermittently illogical, obscure, or irrelevant; near-continuous panic or depression affecting the ability to function independently, appropriately and effectively; impaired impulse control (such as unprovoked irritability with periods of violence); spatial disorientation; neglect of personal appearance and hygiene; difficulty in adapting to stressful circumstances (including work or a worklike setting); inability to establish and maintain effective relationships...70

Occupational and social impairment with reduced reliability and productivity due to such symptoms as: flattened affect; circumstantial, circumlocutory, or stereotyped speech; panic attacks more than once a week; difficulty in understanding complex commands; impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks); impaired judgment; impaired abstract thinking; disturbances of motivation and mood; difficulty in establishing and maintaining effective work and social relationships...50

Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal), due to such symptoms as: depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, mild memory loss (such as forgetting names, directions, recent events)...30

Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or; symptoms controlled by continuous medication...10

A mental condition has been formally diagnosed, but symptoms are not severe enough either to interfere with occupational and social functioning or to require continuous medication...0



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Musculoskeletal Claims: The Knee

- **Scenarios**
- **Developing the claim**
- **Filing the claim**
- **Conditions of the knee and secondary to the knee**



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Scenarios:

You are working with 3 veterans who want to file for a knee condition.

Vet #1: Has no knee complaints in his STRs

Vet #2: Has 1 complaint of "knee pain"

Vet #3: Has multiple complaints of "knee pain" in her STRs



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Scenarios:

Who thinks Vet #1 with no complaints of knee pain in his STRs might become service-connected for a knee condition?





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Scenarios:

Who thinks Vet #2 with one complaint of knee pain in his STRs might become service-connected for a knee condition?





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Scenarios:

**Who thinks Vet #3 with multiple complaints of
knee pain in her STRs might become service-
connected for a knee condition?**





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Scenarios:

The correct answer is...

WE DON'T KNOW!!!



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Scenarios, Vet #1

No complaints of knee pain in his STRs:

GRANTED 10% S/C for L knee and 10% S/C for R knee.

HOW???



"The examiner noted your history of multiple parachute drops as well as your 'suck it up and drive on' attitude and concluded your... Knee condition is due to military service."

- Examine MOS
- Interview the veteran regarding in-service incidents that may not have been reported
- Collect any images, buddy statements or other evidence, if available
- The veteran's lay testimony in conjunction with MOS or other service information may be sufficient to merit a C & P exam



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Scenarios, Vet #2

1 complaint of knee pain in his STRs (called "knee sprain"):

DENIED.

HOW???

""[There is]...no evidence of a chronic knee condition on separation. VA compensation examination performed October 8, 1976, revealed asymptomatic left knee and normal radiology studies of the same."

...note that this C & P occurred just a few months after discharge from active duty.

What is the main issue with trying to get service-connected? Service incident, chronicity, or current diagnosis?

Answer: Service Incident

What are some ways we can help the veteran try to win this claim?



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Scenarios, Vet #3

Multiple complaints of knee pain in her STRs:

DENIED.

HOW???

“While your service treatment records reflect complaints, treatment, or a diagnosis similar to that claimed, the medical evidence supports the conclusion that a persistent disability was not present in service. There was no continuity of symptoms from service to present.”

What is the main issue with trying to get service-connected? Service incident, chronicity, or current diagnosis?

Answer: Chronicity!

What are some ways we can help the veteran try to win this claim?



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File the 21-526EZ or 21-526b

→ Attach other supporting evidence

- MEDICAL OPINION
- Lay statements
- Pictures
- Studies/Literature
 - BVA Cases
 - "PubMed"

Your goal is to make it as fully developed as possible!!

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Knee Conditions are tricky... And I'm not just referring to trick knees!



Knees can be assigned separate disability ratings for conditions where none of the symptomatology for the separately rated conditions is duplicative or overlapping:

- Flexion (5260)
- Extension (5261)
- Arthritis (5003, 5010)
- Depression/Anxiety (9434)
- Other secondary conditions



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Don't forget... Ratings for flexion and extension should include consideration for "functional loss!"

"It is the responsibility of the examining physician to assess how pain and other factors related to functional impairment equate to limitation of motion. The examiner should either

- Report this additional functional loss as range of motion in degrees, or
- Indicate that he/she cannot determine, without resorting to mere speculation, whether any of these factors cause additional functional loss, and provide the rationale for this opinion"

M21-1MR, Part III, Subpart iv, Chapter 4, Section A

**Remind your veteran:
don't try to be a hero
during your exam!**





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And don't forget to think about secondary conditions...

Check out this BVA decision:

FINDINGS OF FACT...

1. The veteran's obesity is aggravated by his service-connected left knee disability.
2. The veteran's patellar tendonitis of the right knee is proximately due to this service-connected left knee disability.
3. The veteran's sleep apnea is proximately due to his obesity.

Citation Nr: 1325545, Decision Date: 08/13/13



So... Primary service connection of the left knee led to...

Secondary sleep apnea



Questions?



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Feel free to contact me with any questions!

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THANK YOU for all you do for our veterans!!!!

