



Veterans Affairs

Frank Guevara
Director

Fact Sheet #10
Rev: 6/15

DUTY TO ASSIST AND NEXUS STATEMENTS

In August 1999, a decision made by the United States Court of Appeals for Veterans Claims (CAVC) changed the way the VA can help veterans and dependents develop claims. Prior to the *Morton* decision, the VA could order exams and request medical records to help the veteran or dependent establish their claims. After *Morton*, the VA could not assist the claimant or order exams until the claim was "well grounded." Effective November 9, 2000, Public Law No. 106-475 eliminated the "well-grounded" requirement.

Veterans Claims Act of 2000 and Duty to Assist

The new law requires that the VA obtain any records in the VA's possession, or within any other Federal agency. The law also mandates the VA tell the claimant what evidence is needed to support their claim. The VA now must make several efforts to obtain any evidence identified by the claimant. The VA also must provide a medical examination, if warranted.

Evidence to support a claim.

By law, the burden of proof falls on the veteran or dependent. Even though the VA is now required to look for evidence, this takes time. You can help your claim and speed up the process if you can obtain supporting evidence.

Evidence can be any number of items: 1) The veteran's statements, especially those of combat veterans claiming a "combat related" injury or illness; 2) Statements from friends, relatives or anyone that has knowledge of your disability and its relationship to service; 3) Medical evidence from outside the VA system. Any lay statements must fit certain criteria and are not always helpful. Some can be harmful to your claim. You should discuss any statements with your veteran's representative before submitting it to the VA.

Nexus Statements

In many cases the veteran or surviving spouse must provide a medical statement that links the current disability with a disability incurred in service. They may also have to provide medical evidence linking a newly diagnosed condition to an existing service-connected disability for secondary service-connection. Such statements are known as "nexus" statements. The nexus statement must be very clear in its language. The VA requires that the medical professional state that the disability is "surely", "more likely than not", or "as likely as not" caused by service (or previously service connected condition). "May be", "could be", or "might be", are not acceptable for VA purposes.

Reminder: When the VA request information from you it is important that you respond quickly. Your claim may be delayed or denied if you do not respond to their requests. To increase your chances of approval, see your veterans' representative so they can help you get the necessary documents and records to support your claim.

Veterans Affairs Office Locations:

- 175 W. Fifth Street, Second Floor, San Bernardino, CA 92415-0470 (909) 387-5516
- 15900 Smoke Tree Street, Hesperia, CA 92345 (760) 995-8010
- 8575 Haven Ave., Rancho Cucamonga, CA 91730 (909-948-6470
- **Or call Toll Free from anywhere in San Bernardino County : 1-866-4SBVets (1-866-472-8387)**

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