Verifying PTSD Stressors

Instructor Lesson Plan

Time Required: 5.25 Hours

**Table of Contents**

[Lesson Description 2](#_Toc444697934)

[Introduction to Verifying PTSD Stressors 4](#_Toc444697935)

[Topic 1: Stressful Events 11](#_Toc444697936)

[Topic 2: Stressor Regulations and Requirements 14](#_Toc444697937)

[Topic 3: Stressor Verification Resources 25](#_Toc444697938)

[Topic 4: Evidentiary Requirements 29](#_Toc444697939)

[Practical Exercise 31](#_Toc444697940)

[Lesson Review, Assessment, and Wrap-up 32](#_Toc444697941)

|  |  |
| --- | --- |
| Lesson Description | |
| The information below provides the instructor with an overview of the lesson and the materials that are required to effectively present this instruction. | |
| TMS # | 4178556 |
| Prerequisites | Prior to this lesson, the Veteran Service Representatives (VSRs) or Rating Veteran Service Representatives (RVSRs) should completed the following lesson plans:   * Completed Challenge Training Phase I through III, and * PTSD Claims Development LMS #61820 |
| target audience | The target audience for Verifying PTSD Stressors is Entry-level VSRs and RVSRs.  Although this lesson is targeted to teach the Entry-level VSRs and RVSRs employee, it may be taught to other VA personnel as mandatory or refresher type training. |
| Time Required | 5.25 hour |
| Materials/ TRAINING AIDS | Lesson materials:   * Verifying PTSD Stressors Presentation * Verifying PTSD Stressors Handout * Verifying PTSD Stressors Lesson Plan |
| Training Area/Tools | The following are required to ensure the trainees are able to meet the lesson objectives:   * Classroom or private area suitable for discussions * Seating, writing materials, and writing surfaces * Handouts, which include a practical exercise * Large writing surface (easel pad, chalkboard, dry erase board, etc.) with appropriate writing materials * Computer with PowerPoint software   Trainees require access to the following tools:   * VA TMS to complete the assessment * VA TMS Evaluation |
| Pre-Planning | * Become familiar with all training materials by reading the Instructor Lesson Plan while simultaneously reviewing the corresponding PowerPoint slides. This will provide you the opportunity to see the connection between the Lesson Plan and the slides, which will allow for a more structured presentation during the training session. * Become familiar with the content of the trainee handouts and their association to the Lesson Plan. * Practice is the best guarantee of providing a quality presentation. At a minimum, do a complete walkthrough of the presentation to practice coordination between this Lesson Plan, the trainee handouts, and the PowerPoint slides and ensure your timing is on track with the length of the lesson. * Ensure that there are copies of all handouts before the training session. * When required, reserve the training room. * Arrange for equipment such as flip charts, an overhead projector, and any other equipment (as needed). * Talk to people in your office who are most familiar with this topic to collect experiences that you can include as examples in the lesson. * This lesson plan belongs to you. Feel free to highlight headings, key phrases, or other information to help the instruction flow smoothly. Feel free to add any notes or information that you need in the margins. |
| Training Day | * Arrive as early as possible to ensure access to the facility and computers. * Become familiar with the location of restrooms and other facilities that the trainees will require. * Test the computer and projector to ensure they are working properly. * Before class begins, open the PowerPoint presentation to the first slide. This will help to ensure the presentation is functioning properly. * Make sure that a whiteboard or flip chart and the associated markers are available. * The instructor completes a roll call attendance sheet or provides a sign-in sheet to the students. The attendance records are forwarded to the Regional Office Training Managers. |

|  |  |  |
| --- | --- | --- |
| Introduction to Verifying PTSD Stressors | | |
| INSTRUCTOR INTRODUCTION | | Complete the following:   * Introduce yourself * Orient learners to the facilities * Ensure that all learners have the required handouts |
| time required | | .5 hours |
| Purpose of Lesson | | This lesson is intended to provide an overview of verifying post-traumatic stress disorder (PTSD) stressors. This lesson will contain discussions and exercises that will allow you to gain a better understanding of:   * Stressful Events * Stressor Regulations and Requirements * Stressor Verification Resources * Evidentiary Requirements |
| Objectives  Slide 2-3  Handout <> | To accomplish the purpose of this lesson, the trainee will be required to accomplish the following lesson objectives.  The trainee will be able to:   * Identify evidence required for in-service diagnosis of PTSD * Identify references/correlated stressors to establish service-connection * Identify personal trauma stressor verification evidence requirements * Identify available claim-development resources for stressor verification * Initiate formal finding memorandum for claim lacking sufficient evidence | |
| Explain the following: | Each learning objective is covered in the associated topic. At the conclusion of the lesson, the learning objectives will be reviewed. | |
| Motivation | It is the responsibility of the VA do perform due diligence in verifying PTSD stressors. | |
| STAR Error code(s) | B2, C1, D1 | |
| References  Slide 4-10  Handout <> | Explain these references.   * [38 CFR 3.304](http://www.ecfr.gov/cgi-bin/text-idx?SID=8495368c63066daf290261093b4e3c5d&mc=true&node=se38.1.3_1304&rgn=div8)(f), Posttraumatic stress disorder * [M21-1, Part IV, Subpart ii, 1.D](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000014906/M21-1-Part-IV-Subpart-ii-Chapter-1-S), Claims for Service Connection (SC) for Post-Traumatic Stress Disorder (PTSD) * [VAOPGCPREC 12-99](http://www.va.gov/ogc/docs/1999/prc12-99.doc), Determinations as to Whether a Veteran "Engaged in Combat With the Enemy" for Purposes of 38 U.S.C. § 1154(b)   The instructor should also discuss the following Court Cases:   * [Doran v. Brown, No. 93-228, April 4, 1994](http://vbaw.vba.va.gov/bl/21/advisory/DADS/1994dads/Doran.doc)   If the claimed stressor is not combat-related, appellant's lay testimony regarding in-service stressors is insufficient to establish the occurrence of the stressor and must be corroborated by "credible supporting evidence.“  There is nothing in the statute or the regulations which provides that corroboration must, and can only, be found in service records.  Those service records which are available must support, i.e., must not contradict, the Veteran's lay testimony concerning his noncombat-related stressors.   * [Moreau v. Brown, No. 94-883, November 14, 1996](http://vbaw.vba.va.gov/bl/21/advisory/DADS/1996dads/Moreau.doc)   Based on the language of section 3.304(f), the Court held that, in PTSD cases, credible supporting evidence of the actual occurrence of an in-service stressor cannot consist solely of after-the-fact medical nexus evidence.   * [Cohen v. Brown, No. 94-661, March 7, 1997](http://vbaw.vba.va.gov/bl/21/advisory/DADS/1997dads/Cohen.doc)   In order to give primacy to [3.304(f)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=920bf31fc3db2ad893123b10f4f2444b&mc=true&n=pt38.1.3&r=PART&ty=HTML) provisions, a clear PTSD diagnosis by a mental-health professional must be presumed (unless evidence shows to the contrary) to have been made in accordance with the applicable DSM criteria as to both the adequacy of the symptomatology and the sufficiency of the stressor.  Mental health professionals are experts and are presumed to know the DSM requirements applicable to their practice and to have taken them into account in providing a PTSD diagnosis.  PTSD may result from a series or aggregate of stressful events, as well as from a single stressful event   * [McClain v. Nicholson, No. 05-0468, June 21, 2007](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2007dads/Mcclain.doc)   The requirement that a Veteran have a current disability before service-connection may be awarded is satisfied when the Veteran has a disability at the time a claim for VA disability compensation is filed or during the pendency of that claim even though the disability resolves prior to the claim’s adjudication.   * [Gaines v. West, No. 97-39, October 10, 1998](http://vbaw.vba.va.gov/bl/21/advisory/DADS/1998dads/Gaines.doc)   If the claimed stressor is not combat related, a Veteran’s lay testimony is insufficient to establish the occurrence of the stressor and must be corroborated by credible supporting evidence On the other hand, if the Veteran did engage in combat with the enemy, he is entitled to have his lay statements accepted, without the need for further corroboration, as satisfactory evidence that the claimed events occurred, unless his descriptions are not consistent with the circumstances, conditions, or hardships of service, or unless the VA finds by clear and convincing evidence that a particular asserted stressful event did not occur.  The VA must make specific findings of fact as to whether or not the Veteran was engaged in combat and must provide adequate reasons or bases for its finding, including a clear analysis of the evidence which it finds persuasive or unpersuasive with respect to that issue.  Also, combat status may be determined through the receipt of certain recognized military citations or other supportive evidence   * [Patton v. West, No. 97-828, August 25, 1999](http://vbaw.vba.va.gov/bl/21/advisory/DADS/1999dads/Patton.doc)   Because of the unique problems of documenting personal trauma claims, the RO is responsible for assisting the claimant in gathering, from sources in addition to in-service records, evidence corroborating an in-service stressor, by sending a special letter and questionnaire, by carefully evaluating that evidence (including behavior changes), and by furnishing a clinical evaluation of behavior evidence.   * [Allen v. Principi, No. 99-7199, February 2, 2001](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2001dads/Allen.doc)   38 U.S.C. 1110permits a Veteran to receive compensation for an alcohol-abuse or drug-abuse disability acquired as secondary to, or as a symptom of, a Veteran’s service-connected disability. Section 1110 precludes compensation only in two situations:   * + for primary alcohol abuse disabilities   + for secondary disabilities (such as cirrhosis of the liver) that result from primary alcohol abuse   Compensation should only result where there is clear medical evidence establishing that the alcohol or drug abuse disability is indeed caused by a veteran’s primary service connected disability, and where the alcohol or drug abuse disability is not due to willful wrongdoing.   * [Pentecost v. Principi, No. 00-2083, May 24, 2002](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2002dads/Pentecost.doc)   In connection with a claim for service-connection for PTSD, records for the Veteran’s unit, which contained descriptions of rocket attacks that occurred while the Veteran was stationed at Da Nang, Vietnam, were sufficient to corroborate the Veteran’s allegations of exposure to an in-service stressor, despite the fact that there was no evidence the Veteran participated in combat.   * [Moran v. Principi, No. 99-754, June 20, 2003](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2003dads/Moran.doc)   The Court held that 38 CFR 3.304(f)’s “credible supporting evidence” requirement that a claimed in-service stressor occurred is a valid criterion to establish service-connection for PTSD.   * [Sizemore v. Principi, No. 02-1012, September 3, 2004](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2004dads/Sizemore.doc)   If a Veteran engaged in combat and the claimed stressor is combat-related, then a Veteran’s lay testimony alone, generally, is sufficient to establish the occurrence of a claimed in‑service stressor. However, if the claimed stressor is not combat-related, its occurrence must be corroborated by credible supporting evidence.  The definition of “engaged in combat with the enemy“ includes defending against the enemy or attacking the enemy, as with artillery fire. There is no requirement that the Veteran have received fire.   * [Buchanan v. Nicholson, No. 05-7174, June 14, 2006](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2006dads/FedCirc/Buchanan.doc)   VA cannot determine that lay evidence lacks credibility merely because it is unaccompanied by contemporaneous medical evidence.  Lay evidence may be rejected when appropriate due to such findings as possible bias, conflicting statements, etc. VA may also consider and weigh the absence of contemporary medical records against the lay evidence of record. However, the lack of contemporaneous medical records, in and of itself, does not render lay evidence incredible.  If the VA concludes that the lay evidence is credible and competent, the lack of contemporary medical records should not be an absolute bar to proving a claim based on competent lay evidence.   * [Daye v. Nicholson, No. 05-2475, November 22, 2006](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2006dads/daye.doc)   The unavailability of service records triggers the heightened duty to assist under [38 U.S.C. 5103A](https://www.law.cornell.edu/uscode/text/38/5103A) in claims for entitlement to service-connection for PTSD.  In such cases, VA should inform the Veteran of the possibility of securing evidence from alternative sources, such as buddy statements, and attempt to verify a Veteran’s claims concerning in-service stressors through unit histories or other documents at the U.S. Army and Joint Services Records Research Center (JSRRC) or other official sources. VA must provide an explanation when finding that a Veteran provided insufficient details to facilitate stressor verification.  Also, while receipt of a combat-related award or citation would confirm combat engagement, the absence of such awards does not preclude a finding that a Veteran had served in combat. Any other determination made solely on the absence of a combat-related award or citation in the Veteran’s DD Form 214 is erroneous.  Boilerplate language (standard verbiage) must be used with precision, i.e., relevant to the Veteran’s claim.   * [McLendon v. Nicholson, No. 04-0185, June 5, 2006](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2006dads/Mclendon.doc)   Medical evidence that suggests a nexus, but is too equivocal or lacking in specificity to support a decision on the merits, still triggers the duty to assist regarding medical examinations/opinions if it indicates that the Veteran’s condition “may be associated” with service. If the first three elements of 38 U.S.C. 5103A(d) and 38 CFR 3.159(c)(4) are met, a VA examination must be ordered, unless there is sufficient competent medical evidence on file for VA to make a decision without it.  The third element, which requires that the evidence indicates that there “may” be a nexus between a current disability and an in-service injury, disease, or event, is a low threshold. Examples of a former paratrooper with arthritic knees and a Veteran’s credible testimony of ringing in the ears with noise exposure in service would be sufficient to show that the disabilities may be related to service and require VA to provide an examination.  Regarding these examples, the Veteran’s testimony concerning continuation of pain since service, if credible, is sufficient to satisfy the third element that the current disability “may be associated” with the in-service injury. Third element evidence is not limited to medical evidence that suggests a nexus. Credible evidence of continuity of symptomatology are capable of being shown by lay observation.   * [Clemons v. Shinseki, No. 07-0558, February 17, 2009](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2009dads/Clemons.doc)   A service-connection claim that only identifies PTSD cannot only be limited to that diagnosis, but must be considered a claim for any mental disability that may be reasonably raised by several factors, to include the Veteran’s description of the claim and/or symptoms and any information and evidence submitted by the Veteran or obtained by VA.  Because a Veteran was reasonably requesting benefits for symptoms of a mental condition he was not competent to medically identify, the adjudication of the claim does not end in the face of currently diagnosed mental conditions that are different from his lay hypothesis on the claim form. It is generally within the province of medical professionals to diagnose or label a mental condition.   * [Acevedo v. Shinseki, No. 10-3402, July 9, 2012](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2012dads/acevedo.doc)   VA is precluded from evaluating the Veteran’s claimed military sexual trauma (MST) under 38 CFR 3.304(f)(3) because the alleged threat to physical integrity was unrelated to “fear of hostile military or terrorist activity,” as required by the regulation.  VA was not prohibited from evaluating a claimed stressor based on MST under 38 CFR 3.304(f)(3); however, the claimed stressor must be related to “fear of hostile military or terrorist activity.”   * [Arzio v. Shinseki, No. 2009-7107, April 19, 2010](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2010dads/FedCirc/Arzio.doc)   In determining whether to grant service-connection for PTSD, the specific requirements of 38 CFR 3.304(f), including the requirement of a verified in-service stressor, take precedence over the general service-connection principles under 38 CFR 3.303.  While 38 CFR 3.303 mandates that there be a link between a current disability and military service, 38 CFR 3.304(f) sets forth the evidence necessary, in the context of claims for PTSD disability compensation, to establish that link.   * [Menegassi v. Shinseki, No. 2010-7091, April 21, 2011](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2011dads/FedCirc/Menegassi.doc)   Under [38 CFR 3.304](http://www.ecfr.gov/cgi-bin/text-idx?SID=920bf31fc3db2ad893123b10f4f2444b&mc=true&node=se38.1.3_1304&rgn=div8)(f)(5), medical opinion evidence may be submitted for use in determining whether the occurrence of a stressor is corroborated.  [38 CFR 3.304](http://www.ecfr.gov/cgi-bin/text-idx?SID=920bf31fc3db2ad893123b10f4f2444b&mc=true&node=se38.1.3_1304&rgn=div8)(f)(5) allows a Veteran claiming PTSD from an in-service personal trauma to submit evidence other than in-service medical records to corroborate the occurrence of a stressor, to include medical opinion evidence. | |

|  |  |
| --- | --- |
| Topic 1: Stressful Events | |
| Introduction | This topic will assist the trainee in understanding required evidence for an in-service PTSD diagnosis, including key components of a stressor and eligibility requirements.  The diagnosis of PTSD for compensation requires a determination as to whether there is reasonably credible supporting evidence that a stressful event occurred. |
| Time Required | .5 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Identify evidence required for in-service diagnosis of PTSD * Identify references/correlated stressors to establish service-connection   The following topic teaching points support the topic objectives:   * Stressors * Eligibility Requirements |
| Stressor  Slide 11-12  Handout < > | 1. The person has been exposed to a **traumatic** event in which both of the following were present:    1. the person experienced, witnessed, or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others, and    2. the person's response involved intense fear, helplessness, or horror. 2. The traumatic event is persistently re-experienced in one (or more) of the following ways:    1. recurrent and intrusive distressing recollections of the event, including images, thoughts, and/or perceptions    2. recurrent distressing dreams of the event    3. acting or feeling as if the traumatic event were recurring (includes a sense of reliving the experience, illusions, hallucinations, and/or dissociative flashback episodes, including those that occur on awakening or when intoxicated)    4. intense psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event    5. physiological reactivity on exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event 3. Persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness (not present before the trauma), as indicated by at least three of the following:    1. efforts to avoid thoughts, feelings, and/or conversations associated with the trauma    2. efforts to avoid activities, places, and/or people that arouse recollections of the trauma    3. inability to recall an important aspect of the trauma    4. markedly diminished interest or participation in significant activities    5. feeling of detachment or estrangement from others    6. restricted range of affect (e.g., inability to have loving feelings)    7. sense of a foreshortened future (e.g., does not expect to have a career, marriage, children, or a normal life span) 4. Persistent symptoms of increased arousal (not present before the trauma), as indicated by at least two of the following:    1. difficulty falling or staying asleep    2. irritability or outbursts of anger    3. difficulty concentrating    4. hypervigilance    5. exaggerated startle response 5. Duration of the disturbance (symptoms in Criteria B, C, and D) is more than one month. 6. The disturbance causes clinically significant distress and/or impairment in social, occupational, and/or other important areas of functioning.   Events such as simple bereavement, chronic illness, business losses, or marital conflict are not outside the range of usual human experience and would not generally be considered traumatic stressors.  A stressful event can be different for each person.  The determination as to whether an event is severe enough to be considered a traumatic stressor is a medical determination, not one to be made by a VSR or RVSR.  Because of the great importance placed upon the traumatic stressor, PTSD is unique among other psychiatric diagnoses. In fact, one cannot make a PTSD diagnosis unless the patient has met the stressor eligibility criteria. |
| Discussion | Discuss how a stressful event may affect a person mentally and physically.  Ask the trainees to provide examples of events that can cause intense fear, helplessness, and horror as they relate to stressor verification.  Conduct a discussion to ensure that the trainees understand the key components of the definition before moving on. |
| Service-Connection Requirements  Slide 13  Handout < > | Because of the importance placed upon the traumatic stressor, PTSD is unique among other psychiatric diagnoses. One cannot make a PTSD diagnosis unless the patient has met the stressor eligibility criteria.  As stated in 38 CFR 3.304(f), service-connection for PTSD requires:   * medical evidence diagnosing the condition in accordance with Sec. 4.125(a), * a link, established by medical evidence, between current symptoms and an in-service stressor, and * credible supporting evidence that the claimed in-service stressor occurred.   38 CFR 4.125(a) states that if the diagnosis of a mental disorder does not conform to DSM-5, or is not supported by the findings on the examination report, the rating agency shall return the report to the examiner to substantiate the diagnosis. |
| Relationship Between Stressor and Symptoms  Slide 14  Handout <> | To establish service-connection for PTSD based on an in-service stressor, the relationship between stressor and symptoms *must* be:   * specifically addressed in the DBQ, and * supported by documentation. |

|  |  |
| --- | --- |
| Topic 2: Stressor Regulations and Requirements | |
| Introduction | This topic will assist the trainees in better understanding the stressors as outlined in 38 CFR 3.304(f) and the evidence that can be used to support the claim that a stressful event occurred. |
| Time Required | 2 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Identify references/correlated stressors to establish service-connection * Identify personal trauma stressor verification evidence requirements   The following topic teaching points support the topic objectives:   * 38 CFR 3.304(f)(1) – PTSD diagnosed in-service * 38 CFR 3.304(f)(2) – PTSD due to combat * 38 CFR 3.304(f)(3) – PTSD due to Veteran's fear of hostile military or terrorist activity * 38 CFR 3.304(f)(4) – PTSD due to Prisoner of War (POW) status * 38 CFR 3.304(f)(5) – PTSD due to personal trauma |
| 38 CFR 3.304(f)(1), Diagnosed in Service  Slide 15  Handout < > | When PTSD is properly diagnosed in service, the Veteran's testimony alone may establish that the claimed stressor occurred, as long as the claimed stressor is:   * related to the Veteran's service, and * consistent with the circumstances, conditions, or hardships of that service.   With an in-service initial diagnosis of PTSD, accept any reasonable in-service stressor, as long as it appears consistent with the circumstances of that Veteran’s particular service.  **Note**: If a Veteran is sound on enlistment and develops delayed or late-onset PTSD in service related to a pre-service stressor, the claim may be granted under 38 U.S.C. 1110, which contains the general criteria for establishing service connection for a chronic disability.  Military and civilian health care providers have a heightened awareness of the symptoms of PTSD and responsiveness to service personnel participating in the Global War on Terror (GWOT). As a result, health professionals are diagnosing and treating PTSD with greater frequency. |
| 38 CFR 3.304(f)(2), Combat  Slide 16  Handout < > | The Veteran's testimony alone establishes the occurrence of the claimed in-service stressor if:   * the evidence of record confirms the Veteran:   + engaged in combat, or   + was a Prisoner of War (POW) as defined by 38 CFR 3.1(y), * the claimed stressor is related to that episode of combat or POW experience, * there is no clear and convincing evidence to the contrary, and * the claimed stressor is consistent with the circumstances, conditions, or hardships of the Veteran's service   Per M21-1 III.iv.4.H.6.b:  To conclude that a Veteran “engaged in combat with the enemy,” the evidence must establish that the Veteran was present during an encounter with a military foe either as a combatant or as a service member performing duty in support of combatants.  There are no limitations as to the type of evidence that may be accepted to confirm engagement in combat. Any evidence that is probative of (serves to establish the fact at issue) combat participation may be used to support a determination that a Veteran engaged in combat.  Determining whether evidence proves a Veteran developed PTSD as a result of combat-related stressors requires an evaluation of all evidence in the case, including   * an assessment of the credibility of the evidence, and * whether the evidence can establish that the stressful event occurred.   Apply the benefit-of-the-doubt standard if the evidence is in equipoise.  VAOPGCPREC 12-99 reads:   * The ordinary meaning of the phrase “engaged in combat with the enemy,” as used in 38 U.S.C. 1154(b), requires that a veteran have participated in events constituting an actual fight or encounter with a military foe or hostile unit or instrumentality. Nothing in the language or history of that statute or any VA regulation suggests a more specific definition. The issue of whether any particular set of circumstances constitutes engagement in combat with the enemy for purposes of 38 U.S.C. 1154(b) must be resolved on a case-by-case basis. VA may issue regulations clarifying the types of activities that will be considered to fall within the scope of the term. * The determination as to what evidence may be satisfactory proof that a veteran “engaged in combat with the enemy” depends on the facts of each case. Determining whether evidence establishes that a veteran engaged in combat with the enemy requires evaluation of all pertinent evidence in each case, and assessment of the credibility, probative value, and relative weight of the evidence. * There is no statutory or regulatory limitation on the types of evidence that may be used in any case to support a finding that a veteran engaged in combat with the enemy. Accordingly, any evidence which is probative of that fact may be used by a veteran to support an assertion that the veteran engaged in combat with the enemy, and VA must consider any such evidence in connection with all other pertinent evidence of record. * Whether a particular statement in service-department records indicating that the veteran participated in a particular “operation” or “campaign” is sufficient to establish that the veteran engaged in combat with the enemy depends upon the language and context of the records in each case. As a general matter, evidence of participation in an “operation” or “campaign” often would not, in itself, establish that a veteran engaged in combat, because those terms ordinarily may encompass both combat and non-combat activities. However, there may be circumstances in which the context of a particular service-department record indicates that reference to a particular operation or campaign reflects engagement in combat. Further, evidence of participation in a particular “operation” or “campaign” must be considered by VA in relation to other evidence of record, even if it does not, in itself, conclusively establish engagement in combat with the enemy. * The benefit-of-the-doubt rule in 38 U.S.C. 5107(b) applies to determinations of whether a veteran engaged in combat with the enemy for purposes of 38 U.S.C. 1154(b) in the same manner as it applies to any other determination material to resolution of a claim for VA benefits. VA must evaluate the credibility and probative value of all pertinent evidence of record and determine whether there is an approximate balance of positive and negative evidence or whether the evidence preponderates either for or against a finding that the veteran engaged in combat. If there is an approximate balance of positive and negative evidence, the issue must be resolved in the veteran’s favor.   38 USC 2107(b) states that the Secretary shall consider all information and lay and medical evidence of record in a case before the Secretary with respect to benefits under laws administered by the Secretary. When there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, the Secretary shall give the benefit of the doubt to the claimant. |
| Combat Evidence  Slide 17  Handout < > | Consider the receipt of any of the following individual decorations as evidence that the Veteran engaged in combat:   * Any of the following with “V” device   + Air Force Achievement Medal   + Air Force Commendation Medal   + Air Medal   + Army Commendation Medal   + Bronze Star Medal   + Joint Service Commendation Medal   + Navy Commendation Medal * Air Force Combat Action Medal * Air Force Cross * Combat Action Badge * Combat Action Ribbon (prior to February, 1969, the Navy Commendation Medal with “V” device) * Combat Aircrew Insignia * Combat Infantry/Infantryman Badge * Combat Medical Badge * Distinguished Flying Cross * Distinguished Service Cross * Fleet Marine Force Combat Operations Insignia * Medal of Honor * Navy Cross * Purple Heart * Silver Star   The receipt of military awards such as, but not limited to, the Vietnam Service or Campaign Medal, Kuwait Liberation Medal, Iraq Campaign Medal, and Afghanistan Campaign Medal is generally considered evidence of service in an area of potential hostile military or terrorist activity.  The receipt of military awards such as the National Defense Service Medal, Armed Forces Service Medal, and Global War on Terrorism (GWOT) Service Medal generally does not indicate service in locations that involve exposure to hostile military or terrorist activity because these are general medals that do not denote service in a particular area or campaign. If the Veteran served in an area of potential hostile military or terrorist activity, he/she would have received a more specific medal for such service.  A DD Form 214 or other documents contained in the Veteran’s Official Military Personnel File should confirm receipt of these medals. PIES may also be used to electronically confirm that a Veteran received one of these medals |
| 38 CFR 3.304(f)(3), Fear of Hostile Military or Terrorist Activity  Slide 18  Handout <> | The Veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor if a psychiatrist or psychologist confirms that:   * the claimed stressor is adequate to support a diagnosis of PTSD, * the Veteran's symptoms are related to the claimed stressor, and * the claimed stressor is consistent with the places, types, and circumstances of the Veteran's service.   "Fear of hostile military or terrorist activity" means that a Veteran experienced, witnessed, or was confronted with an event or circumstance that involved actual or threatened death or serious injury, or a threat to the physical integrity of the Veteran or others, such as:   * an actual or potential improvised explosive device, * vehicle-imbedded explosive device, * incoming artillery, rocket, mortar fire, grenade, and/or small arms fire (including suspected sniper fire), * or attack upon friendly military aircraft, and   the Veteran's response to the event or circumstance involved a psychological or psycho-physiological state of fear, helplessness, or horror.  There are four elements to this regulation:   * Fear of hostile military or terrorist activity * VA or VA contractor must provide the exam * The Veteran’s symptoms relate to stressor * Stressor is consistent with places, type & circumstances of service |
| 38 CFR 3.304(f)(4), POW Status  Slide 19  Handout <> | The Veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor if:   * evidence establishes that the Veteran was a POW under the provisions of 38 CFR 3.1(y), * the claimed stressor is related to that POW experience, and * the claimed stressor is consistent with the circumstances, conditions, or hardships of the Veteran's service   38 CFR 3.1(y) states that the term ***former prisoner of war*** means a person who, while serving in the active military, naval, or air service, was forcibly detained or interned in the line of duty by an enemy or foreign government, the agents of either, or a hostile force.  Reasonable evidence in the STRs, Personnel File, or DD-214 shall suffice for stressor verification of POW Status.  VA shall accept the findings of service departments of POW Status.  Consult with the POW Coordinator at your Regional Office.  The VA shall accept the findings of the appropriate service department that a person was a POW during a period of war unless a reasonable basis exists for questioning it. Such findings shall be accepted only when detention or internment is by an enemy government or its agents.  In other words, VA accepts the service department designation of POW; no further development needed.  In all other situations, including those in which the Department of Veterans Affairs cannot accept the service department findings, the following factors shall be used to determine prisoner of war status:   1. *Circumstances of detention or internment.* To be considered a former prisoner of war, a serviceperson must have been forcibly detained or interned under circumstances comparable to those under which persons generally have been forcibly detained or interned by enemy governments during periods of war. Such circumstances include, but are not limited to, physical hardships or abuse, psychological hardships or abuse, malnutrition, and unsanitary conditions. Each individual member of a particular group of detainees or internees shall, in the absence of evidence to the contrary, be considered to have experienced the same circumstances as those experienced by the group. 2. *Reason for detainment or internment.* The reason for which a serviceperson was detained or interned is immaterial in determining POW status, except that a serviceperson who is detained or interned by a foreign government for an alleged violation of its laws is not entitled to be considered a former POW on the basis of that period of detention or internment, unless the charges are a sham intended to legitimize the period of detention or internment.   An administrative decision is needed for all *other* decisions regarding POW status. This should be a last resort.  The Director of the Compensation Service, VA Central Office, shall approve all VA regional office determinations establishing or denying POW status, with the exception of those service department determinations accepted under paragraph (y)(1) of this section.  In other words, Central Office must approve all administrative decisions for POW status.  In Line of Duty  The VA shall consider that a serviceperson was forcibly detained or interned in line of duty unless the evidence of record discloses that forcible detainment or internment was the proximate result of the serviceperson's own willful misconduct.  Hostile Force  The term "hostile force" means any entity other than an enemy or foreign government or the agents of either whose actions are taken to further or enhance anti-American military, political or economic objectives or views or to attempt to embarrass the United States. (Authority: 38 U.S.C. 101(32)) |
| 38 CFR 3.304(f)(5), Personal Trauma  Slide 20-21  Handout <> | As stated in 38 CFR 3.304(f)(5):  If a PTSD claim is based on in-service personal assault, evidence from sources other than the Veteran's service records may corroborate the Veteran's account of the stressor incident.  Personal trauma is an event of human design that threatens or inflicts harm, such as:   * rape, * physical assault and domestic battering, * robbery and mugging, * stalking, and * harassment.   Males and females may have experienced sexual or physical trauma while serving on active military duty  Personal trauma claims are unlike any other PTSD claims. There must be credible supporting evidence to support the Veteran’s assertion that the stressful event occurred. This does not mean that the claimed stressor has to be “proven.”  Military Service members may be more reluctant than civilians to report or discuss sexual or physical trauma for many reasons:   * Occurred in a safe place (on military facility) * Supervisor or co-worker may be the perpetrator * Victim thinks it may affect their job   Personal trauma claims are the only type of PTSD claims in which the examiner is asked to determine whether the stressor occurred based on the markers. In other types of PTSD claims, it is up to the decision maker to concede the stressor.  Evidence from sources other than the Veteran's service records may corroborate the Veteran's account of the stressor incident. Other corroborating sources include, but are not limited to, the following:   * Records from law enforcement authorities, rape crisis centers, mental health counseling centers, hospitals, and physicians * Tests results including pregnancy tests and tests for sexually transmitted diseases * Statements from family members, roommates, clergy, and fellow service members * Personal diaries or journals * Behavioral changes   Evidence of behavioral changes may also constitute credible evidence of the Military Sexual Trauma (MST). Types of behavioral changes that may constitute credible evidence of MST include, but are not limited to:   * A request for a transfer to another duty assignment * Deterioration in work performance * Substance abuse * Episodes of depression * Panic attacks * Anxiety without an identifiable cause * Unexplained economic or social behavioral changes   Markers are often needed to help verify that a traumatic event occurred. For claim development purposes, markers:   * are isolated events that by themselves have no specific relationship to the traumatic event, * take on meaning when viewed in the context of other facts and circumstances contemporary with the trauma or harassment, and * are identified by changes in behavior.   Examples of markers are listed below and can be found in M21-1 III.iv.4.H.4.d:   * increased use or abuse of leave without an apparent reason, such as family obligations or family illness * episodes of depression, panic attacks, or anxiety without identifiable reasons * visits to a medical or counseling clinic or dispensary without a specific diagnosis or specific ailment * use of, or increased interest in, pregnancy tests or tests for sexually-transmitted diseases (including HIV) around the time of the incident * sudden requests that the Veteran’s military occupational series or duty assignment be changed without other justification * changes in performance and performance evaluations * increased or decreased use of prescription medications * increased use of over-the-counter medications * alcohol or drug abuse * increased disregard for military or civilian authority * obsessive behavior such as overeating or undereating * unexplained economic or social behavior changes * treatment for physical injuries around the time of the claimed trauma, but not reported as a result of the trauma, and/or * the breakup of a primary relationship.   A claim for PTSD due to personal trauma cannot be denied without first advising the claimant that evidence from sources other than his or her service records, or evidence of behavior changes, may constitute credible supporting evidence of the stressor.  Secondary evidence of behavior changes may be the only evidence of record to support that a stressful event occurred.  That evidence may require clinical interpretation in relationship to the medical diagnosis of PTSD.  Every effort must be made in assisting the claimant in developing pertinent evidence to support the alleged incident.  If the evidence is sufficient to conclude that the claimed in-service stressful event occurred as alleged, then the stressor must be conceded. |
| Non-Combat Stressor  Slide 22  *Handout <>* | Non-Combat Stressors can be:   * Natural disasters: * Fires * Floods * Earthquakes * Vehicle crashes: * Automobile/Plane/Ship * Explosions * Specific duty assignments: * Burn ward * Graves registration * Liberation of internment camps * Witnessing the death, injury, or threat to the physical being of another person not caused by the enemy * Actual or threatened death or serious injury, or other threat to one’s physical being, not caused by the enemy   A non-combat Veteran’s testimony is only one piece of evidence.  There must be additional supporting evidence of the stressor.  Complete development must be undertaken if the stressor is non-combat related and there is not enough evidence to support it.  A doctor who treated the Veteran many years after the claimed stressor does not corroborate the occurrence of the claimed stressor.  A non-combat Veteran's testimony is different from a combat Veteran’s testimony in that the testimony alone does not qualify as credible supporting evidence of an in-service stressor. The in-service stressor must be consistent with the places, types, and circumstances of the Veteran's service. |
| Development Procedures  Slide 23  Handout < > | The Veteran is to be given every opportunity to support the claimed stressor, but it is the Veteran’s responsibility to provide the evidence needed to conduct a search. This evidence should include names, dates (a 60-day window), places, and units of assignment (to the battalion or company level).   |  |  | | --- | --- | | **If a Veteran…** | **Then…** | | fails to respond within 30 days to the request for information about a claimed stressful event, | refer the case to the JSRRC coordinator to make a formal finding that sufficient information required to corroborate the claimed stressor(s) does not exist. | | submits insufficient information in response to the initial request for information, | send a 30-day follow-up letter explaining:   * What information is missing * Why the information is needed | | fails to respond to the follow-up letter within 30 days, | refer the case to the JSRRC coordinator to make a formal finding that sufficient information required to corroborate the claimed stressor(s) does not exist. | | submits information in response to the follow-up letter that is still insufficient, |   Complete development must be undertaken if the stressor is non-combat related and there is not enough evidence to support it.  Conceding the occurrence of a claimed stressor is made on a case-by-case basis after complete analysis of all the evidence of record, including the Veteran’s description of the event. |

|  |  |
| --- | --- |
| Topic 3: Stressor Verification Resources | |
| Introduction | This topic will assist the trainee in better understanding the resources available for claim development for PTSD stressor verification. Credible supporting evidence must support the assertion that the event occurred. The evidence does not have to **prove** the stressor, but the preponderance of evidence must **support** the contention that it occurred. |
| Time Required | 1 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Identify available claim-development resources for stressor verification   The following topic teaching points support the topic objectives:   * Primary Sources * Secondary Sources * Stressor Verification Database * Joint Services Records Research Center (JSRRC |
| Stressor Verification Resources  Slide 24  Handout < > | Primary evidence, generally considered the most reliable source for verifying in-service stressors, is typically obtained from:   * JSRRC, * National Archives and Records Administration (NARA), * Marine Corps Archives and Special Collections (MCASC), or * Compensation Service website links.   Primary evidence may include:   * service personnel records (SPRs) and pay records * military occupation evidence * hazard pay records * military performance reports * verification that the Veteran received Combat/Imminent Danger/Hostile Fire Pay * unit and organizational histories * daily staff journals * operational reports-lessons learned (ORLLs) * after action reports (AARs) * radio logs, deck logs, and ship histories * muster rolls * command chronologies and war diaries * monthly summaries and morning reports   Possible research sites may include:   * Air Force Historical Research Agency * United States Air Force Class-A Aerospace Mishaps * US Navy Seabee Museum * The Dictionary of American Fighting Ships * GulfLink * The Vietnam Archive at Texas Tech University * NavSource Naval History   Generally, documents written or recorded by the lowest possible unit in the chain of the command are the most probative source of information to verify a claimed stressor, because, by nature, they tend to include details of events with greater precision. Examples include:   * A company commander's narrative is likely of greater relevance and specificity than a battalion commander's narrative. * A Navy ship's deck log would likely yield more probative information than a fleet log.   At a minimum, the Veteran must provide:   * a stressor that can be documented, * the location where the incident took place, * the approximate date (within a 60-day period) of the incident, and * the unit of assignment at the time the stressful event occurred.   Secondary sources of evidence for information confirming participation in combat or to otherwise corroborate a claimed in-service stressor include:   * STRs * Buddy statements * Newspaper archives * Contemporaneous letters and diaries   All sources of evidence obtained for purposes of stressor corroboration must be fully documented in the file.  **Example**: Upload pages from a sanctioned website used in the determination of combat participation.  While confirmation of receipt of Combat/Imminent Danger/Hostile Fire Pay through the VIS alone does not constitute verification of a combat-related stressor, it may, in combination with other evidence, "tip the scales" in favor of the Veteran's assertion of his/her involvement in combat.  The Stressor Verification Database is located on the C&P website.  It contains official military documents collected from publicly available sources through extensive research efforts.  Some information was obtained from the Vietnam Archive at Texas Tech University, which is a storehouse of declassified Department of Defense documents and information.  The database includes over 2000 PDF files, with many of them containing multiple individual documents.  The database includes military documents from WWII through the Global War on Terror, with the majority of resources being from the Vietnam era.  JSRRC researches Army, Navy, Air Force, and Coast Guard records containing historical information on individual units within these branches of service, as well as some personnel records related to stressful events described by the Veteran.  A request to JSRRC (or the Marine Corps) is required if corroboration of a claimed stressor at the local level is not possible.  Most JSRRC records are not stored electronically and must be searched manually.  JSRRC can verify non-combat stressful events.  Army, Navy, Air Force, and Coast Guard   * Historical Information on Individual Units * Some Personnel Records Related to Stressful Events   Marine Corps   * Must be requested from the Marine Corps Archives   Summary of Findings Only  No Evaluation of Evidence, Opinions, Conclusions, or Decisions  Military records are often incomplete. Many records are quite voluminous, which is the reason behind JSRRC’s requirement that the Veteran provide, at a minimum, the 60-day time period in which the claimed stressor occurred.  The following is a list of claimed stressors that are extremely difficult, if not impossible, for JSRRC to verify:   * Events that “almost happened” * Events involving civilians * Mistreatment of enemy prisoners * Sniper attacks * Events occurring while traveling in a convoy * Duty as a door gunner   Compensation Service will endorse information from any website that is a military (.mil) or government (.gov) site.  Educational sites (.edu) like Texas Tech University, which contain PDF file repositories of official military documents and provide a search function.  Regional Office personnel should take every measure to corroborate a Veteran’s claimed stressor(s).  There will be cases were corroboration will simply not be possible at the local level because VA does not hold all available unit records.  If corroboration of a claimed stressor is not possible at the local level, a request to JSRRC is **required** before the claim can be denied (except for personal trauma claims).  Always consider reasonable doubt (38 CFR 3.102). |

|  |  |
| --- | --- |
| Topic 4: Evidentiary Requirements | |
| Introduction | This topic will assist the trainee in better understanding the evidentiary requirements for claim development for PTSD stressor verification, as well as the requirements concerning formal findings regarding PTSD stressor verification. |
| Time Required | .5 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Initiate formal finding memorandum for claim lacking sufficient evidence   The following topic teaching points support the topic objectives:   * Credible Supporting Evidence * Degree of Stressor Corroboration Required * Lack of Sufficient Evidence * Formal Finding of Unavailability Memorandum |
| <Enter Heading>  Slide 25  Handout < > | Credible supporting evidence:   * documents the Veteran's participation in the event, * indicates the Veteran served in the immediate area and at the particular time in which the stressful event is alleged to have occurred, and * supports the description of the event.   Degree of stressor corroboration:   * Corroboration of every detail is not required. * Evidence may be sufficient if it implies a Veteran's personal exposure to the event.   Evaluate the evidence as a whole to determine whether a stressor is sufficiently corroborated.  Corroborating evidence of a stressor may be obtained from sources other than service records.  Credible supporting evidence requirement does not necessarily demand the submission of official documentary evidence.  If corroboration of a stressor is not feasible, the JSRRC coordinator must complete a formal finding regarding the lack of sufficient information to document the occurrence of, and/or the Veteran’s involvement in, the claimed stressful event.  The claim should then be decided based on the evidence of record.  Corroboration of every detail, including the claimant's personal participation in the claimed stressful event, is not required. The evidence may be sufficient if it implies a Veteran's personal exposure to the event. For example:   * When considered as a whole, evidence consisting of a morning report, radio log, and nomination for a Bronze Star may be sufficient to corroborate a Veteran's account of an event, even if it does not specifically include mention of the Veteran's name. (See *Suozzi v. Brown,* 10 Vet. App. 307 (1997).) * Unit records documenting the Veteran's presence with a specific unit at the time mortar attacks occurred may be sufficient to corroborate a Veteran's statement that they experienced such attacks personally. (See *Pentecost v. Principi,* 16 Vet. App. 124 (2002).) |
| Formal Finding  Slide 26  Handout < > | Denying service-connection solely because of an unconfirmed stressor is improper unless:   * the appropriate records custodian has confirmed that the claimed stressor cannot be corroborated, and * the Veteran has failed to provide the basic information required to conduct research and the JSRRC coordinator has taken the appropriate actions. |

|  |  |
| --- | --- |
| Practical Exercise | |
| Time Required | .5 hour |
| EXERCISE | Refer trainees to the Practical Exercise in the trainee handout packet.   1. Tell trainees to read each scenario and answer the related question. 2. Give trainees 20 minutes to complete the exercise. 3. Ask if there are any questions about the information presented in the exercise, and then proceed to the Review. |

|  |  |
| --- | --- |
| Lesson Review, Assessment, and Wrap-up | |
| Introduction | The Verifying PTSD Stressors lesson is complete.  Review each lesson objective and ask the trainees for any questions or comments. |
| Time Required | .25 hours |
| Lesson Objectives | You have completed the Verifying PTSD Stressors lesson.  The trainee should be able to:   * Identify evidence required for in-service diagnosis of PTSD * Identify references/correlated stressors to establish service-connection * Identify personal trauma stressor verification evidence requirements * Identify available claim-development resources for stressor verification * Initiate formal finding memorandum for claim lacking sufficient evidence |
| Assessment | Remind the trainees to complete the on-line assessment in TMS to receive credit for completion of the course.  The assessment will allow the participants to demonstrate their understanding of the information presented in this lesson. |