Requesting Medical Opinions

Instructor Lesson Plan

Time Required: 2 Hours

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| 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 # | 616916 |
| PrerequisitesSlide 2 *Handout <>* | Prior to this lesson the trainees must have completed the following lessons:* VSR Compensation: Request a VA Exam, TPSS Module, TMS 3940820
* CAATS Contract Exam Training TMS 4111523
* Examination Request Builder Video, TMS 4093560
* Recognizing When to Request a Medical Opinion, TMS 1386326, and
* Disability Benefit Questionnaires (DBQs) and Medical Opinions, TMS 3630994
 |
| target audience | The target audience for Requesting Medical Opinions is VSR Journey level and RVSR employees.Although this lesson is targeted to teach the VSR Journey level and RVSR employees, it may be taught to other VA personnel as mandatory or refresher type training. |
| Time Required | 2 hours |
| Materials/TRAINING AIDS | Lesson materials:* Requesting Medical Opinions PowerPoint Presentation
* Requesting Medical Opinions Trainee Handouts
 |
| Training Area/Tools  | The following are required to ensure the trainees are able to meet the lesson objectives: * Classroom or private area suitable for participatory discussions
* Seating, writing materials, and writing surfaces for trainee note taking and participation
* Handouts, which include a practical exercise
* Large writing surface (easel pad, chalkboard, dry erase board, overhead projector, etc.) with appropriate writing materials
* Computer with PowerPoint software to present the lesson material

Trainees require access to the following tools: * VA TMS to complete the assessment
 |
| 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.
* Complete a student attendance roster at the conclusion of the session.
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| Introduction to Requesting Medical Opinions |
| INSTRUCTOR INTRODUCTION | Complete the following:* Introduce yourself
* Orient learners to the facilities
* Ensure that all learners have the required handouts
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| time required | 5 minutes |
| Purpose of LessonExplain the following: | This lesson is intended as an advanced course for VSRs to meet the training requirements to request medical opinions. This lesson will contain discussions and exercises that will allow you to gain a better understanding of: * Medical Opinion Review
* Evidence For Medical Opinions
* Medical Opinion Tools
* Medical Opinion Templates
 |
| Lesson ObjectivesDiscuss the following:Slide 3 Handout 2 | In order to accomplish the purpose of this lesson, the VSR will be required to accomplish the following lesson objectives.TheVSR will be able to: * Indicate who may request a medical opinion
* Identify the regulation governing requesting medical opinions
* Identify evidence for medical opinions
* Identify the tools and steps required to request medical opinions
* Differentiate the types of medical opinions
 |
| 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 | A VSR can contribute to expediting the claims process with increased knowledge and skills to identify and complete medical opinions.Some of the information in this course is directly from the M21-1 manual. This lesson will allow VSRs to practice the steps and procedures as outlined in the M21-1 manual. |
| STAR Error code(s) | B2, Medical opinions were necessary to make a decision on a claim and were not requested.  |
| ReferencesSlide 4 Handout 3 | Explain where these references are located in the workplace.* [38 CFR 3.159(c)(4) Providing medical examinations or obtaining medical opinions](http://www.ecfr.gov/cgi-bin/text-idx?SID=0627d45615877f6fc15c40cf12fb32e8&mc=true&node=se38.1.3_1159&rgn=div8)
* [McLendon v. Nicholson, June 5, 2006, No 04-0185](http://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000014871/McLendon-v-Nicholson-June-5-2006-No-04-0185)
* [M21-1, Part III, Subpart iv, Chapter 3, Section A - Examination Requests](http://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000015809/M21-1-Part-III-Subpart-iv-Chapter-3)
 |
| Topic 1: Medical Opinion Review |
| Introduction | This topic will allow the trainee to review the information received in the prerequisite courses. |
| Time Required | .25 hours |
| OBJECTIVES/Teaching Points | Topic objectives:* Indicate who may request a medical opinion
* Identify the regulation governing requesting medical opinions

The following topic teaching points support the topic objectives: * [Maintaining Objectivity In Medical Opinion Requests](#_Maintaining_Objectivity_In)
* [Avoiding Asking For Legal Conclusions In Medical Opinion Requests](#_Avoiding_Asking_For)
* [Who May Request a Medical Opinion](#_Who_May_Request)
* [38 CFR 3.159(c)(4)](#_38_CFR_3.159(c)(4))
* [McLendon v. Nicholson, No 04-0185, June 5, 2006](#_McLendon_v._Nicholson,)
 |
| Maintaining Objectivity In Medical Opinion Requests*Slide 5**Handout 4* | When requesting medical opinions, RO employees should identify all relevant evidence for the examiner’s review, both favorable and unfavorable. However, maintain objectivity when preparing medical opinion requests.* Use a neutral and unbiased tone.
* Do not slant the facts.
* Do not communicate that VA prefers one answer or outcome over another.

Reference: For more information on requesting a medical opinion in an impartial manner, see [Douglas v. Shinseki](http://vbaw.vba.va.gov/bl/21/Advisory/DADS/2009dads/douglas.doc), 23 Vet. App. 19, 24, 25-26 (2009). |
| Avoiding Asking For Legal Conclusions In Medical Opinion Requests*Slide 6, 7, 8**Handout 4* | Do not request a medical authority to make conclusions of law, which is a responsibility inherent to the rating activity. To prevent confusion, avoid using the word “opinion” when asking the examiner a question about any issue that does not require a formal medical opinion.Examples: * Do not request the medical authority to opine if there is loss of use of an extremity; ask for a description of the remaining function of the extremity.
* Do not ask the medical authority to determine if a particular disability is “service-connected” or “SC.” Instead, identify the in-service injury, event, or illness, as well as current disability, and ask the examiner to provide an opinion as to whether or not the current disability was caused by or the result of the identified in-service injury, event, or illness.
* Do not ask the medical authority to provide an opinion as to whether a Veteran is “unemployable” or “entitled to individual unemployability.” Instead, in the Remarks section of the examination request, ask the examiner to comment on the Veteran’s ability to function in an occupational environment and to describe functional limitations.
 |
| Who May Request a Medical OpinionSlide 9, 10Handout 4-5 | In accordance with M21-1, Part III, Subpart iv, Chapter 3, Section A.7.a:Journey-level VSRs who have completed training specified by Central Office (CO) may prepare basic or straightforward medical opinion requests without RVSR or DRO review. Subject to the exception below, the VSCM will designate categories of opinions that are sufficiently basic or straightforward. ***Exception***: Only RVSRs or DROs may prepare complex medical opinion requests. These include issues involving:* compensation under 38 U.S.C. 1151
* aggravation (including *Allen* aggravation)
* diagnostic variation or conflicting medical evidence
* questions of credibility of evidence presented to the examiner, or
* any other matters specified by the VSCM such as
	+ rare disorders/rare etiologies, or
	+ sensitive or high priority claims.

***Notes***: * A VSCM may authorize a medical opinion in any case in which he/she believes it is warranted.
* A medical opinion request must be signed by the person who prepared it.

Generally any VSR may order an examination using the Hearing Loss and Tinnitus DBQ, which includes certain routine etiology opinions. However, in cases where a separate Medical Opinion DBQ is required to solicit an opinion not included on the DBQ, the opinion request should be prepared by an RVSR or DRO. |
| [38 CFR 3.159(c)(4)](http://www.ecfr.gov/cgi-bin/text-idx?SID=0627d45615877f6fc15c40cf12fb32e8&mc=true&node=se38.1.3_1159&rgn=div8)Slide 11Handout 5 | Providing medical examinations or obtaining medical opinions. In a claim for disability compensation, VA will provide a medical examination or obtain a medical opinion based upon a review of the evidence of record if VA determines it is necessary to decide the claim. A medical examination or medical opinion is necessary if the information and evidence of record does not contain sufficient competent medical evidence to decide the claim, but:1. Contains competent **lay or medical evidence** of a current **diagnosed** disability or **persistent or recurrent symptoms** of disability.
2. Establishes that the service member suffered an **event, injury or disease in service**, or has a disease or symptoms of a disease listed in §3.309, §3.313, §3.316, and §3.317 manifesting during an applicable presumptive period provided the claimant has the required service or triggering event to qualify for that presumption; and
3. Indicates that the claimed disability or symptoms **may be associated with the established event, injury, or disease** in service or with another service-connected disability.
 |
| [McLendon v. Nicholson, No 04-0185, June 5, 2006](http://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/%22%20%5Cl%20%22%21agent/portal/554400000001034/article/554400000014871/McLendon-v-Nicholson-June-5-2006-No-04-0185) Slide 12*Handout 5-6* | The Court held that **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 C.F.R. § 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 providing an examination.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**.The third element evidence is not limited to medical evidence that suggests a nexus. Credible evidence of continuity of symptomatology such as pain or other symptoms are capable of being shown by lay observation. The common question should be, “What are the reasons that a VA Exam is not needed?” rather than “Why should a VA Exam be requested?” There are fewer reasons as to why a VA Exam should not be requested, therefore, the “why not” list is shorter. |
| Check for Comprehension*Instructor Note: Ask the trainees to answer the following questions.* | Q. What type of medical opinions will VSRs be allowed to request after completing this course?A. Straight forward medical opinions.Q. Which regulation governs requesting medical opinions?A. 38 CFR 3.159(c)(4) |

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| Topic 2: Evidence for Medical Opinions |
| Introduction | This topic will allow the trainee to recognize and identify evidence in the claim folder to request medical opinions. |
| Time Required | .25 hours |
| OBJECTIVES/Teaching Points | Topic objectives:* Identify evidence for medical opinions

The following topic teaching points support the topic objectives: * Evidence in the Claim Folder
* Bookmarking Documents for Examiner Review
* Annotating Documents for Examiner Review
* Identifying the Evidence to be Reviewed in a Medical Opinion Request
 |
| Evidence in the Claim Folder*Slide 13*Handout 7 | Ensure all pertinent records are uploaded into VBMS, Virtual VA or in the paper claims folder, and* all relevant records are annotated and/or bookmarked in the eFolder, or
* tabbed in the paper claims folder.
 |
| Recognizing Pertinent Evidence in the Claim Folder*Slide 14**Handout 7**Instructor Note: Recommend the students take an additional course on Evaluating Lay Evidence, TMS 3879907* | 38 CFR 3.159(c)(4) best describes the evidence needed to request an exam or medical opinion.The employee who requests the medical opinion will need to recognize and identify all evidence which is related to the claimed disability such as:* Competent lay evidence which describes persistent or recurrent symptoms of disability, **and/or**
* Competent medical evidence which provides a current diagnosis of the claimed disability, **and**
* The evidence of an in-service event, injury or disease related to the claimed disability.

Properly identifying the evidence will help the examiner to establish an opinion if the evidence of the claimed disability or symptoms may be associated with the established event, injury, or disease in service or with another service-connected disability. |
| Bookmarking Documents for Examiner Review*Instructor Note: If possible provide a demonstration of bookmarking documents in VBMS*Slide 15 - 18Handout 7-8 | While there are multiple bookmark types available in VBMS, when bookmarking evidence for an examiner’s review, ROs must use the medical bookmark.The following steps are found in M21-1, Part III, Subpart iv, Chapter 3.A.15.e

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| **Step**  | **Action** |
| 1 | Locate the document in which you want to add a bookmark. |
| 2 | Click on the bookmark icon in the TOOLS column. The BOOKMARKS prompt box appears.**screenshot of bookmark icon in the TOOLS column** |
| 3 | For each document in the eFolder that contains information to be reviewed by a VA examiner, select the medical bookmark (heart shape icon).***Example***: The veteran has claimed a right knee and left shoulder condition. A review of the STRs shows treatment for chondromalacia patella of the right knee and a rotator cuff tear of the left shoulder. An examiner will need to review the records. |
| 4 | In the expanded prompt box that appears, type the* tab name, and
* contention(s) name.

**In the contention box, type tab name and contention name** |
| 5 | * Click the working notes bookmark (note paper icon).
* In the expanded prompt box list
	+ the condition treated, and
	+ the pages where treatment can be found for the relevant conditions.

in the expanded prompt box, condition treated and pages |

 |
| Annotating Documents for Examiner ReviewSlides 19 - 21Handout 8-9 | ROs must follow the standardized steps in the table below to annotate documents in the claims folder for the examiner’s review.The following guidance is in M21-1, Part III, Subpart iv, Chapter 3.A.15.f.Important: There are many available styles of annotations. For the purpose of promoting consistency, use only the note annotation when tabbing evidence for the examiner’s review.

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| **Step** | **Action** |
| 1 | Locate the document you want to annotate. |
| 2 | Click on the annotator view icon next to the document name.**annotator view icon next to the document name** |
| 3 | The document will open with an additional toolbar located at the top. Click on the “*add an annotation”* button.add an annotation button |
| 4 | Hold down the left mouse button and drag the cursor over a small area where you want the annotation to appear. This action will bring up the text box that allows you to type out notes or details for consideration. |
| 5 | * In the ANNOTATION text box, select *Note.*
* In the text field, list the
	+ tab name
	+ relevant contentions, and
	+ page numbers where treatment can be found in the document.

**annotation text box, select note** |
| 6 | Click the SAVE button in the toolbar.image of SAVE button in the toolbar |

 |
| Note the Evidence to be Reviewed in a Medical Opinion Request*Slide 22**Handout 9* | Write down or take notes of all the evidence you will be identifying to the examiner. The following information is needed for the Tab field in the Exam Request Builder.* associated exam field
* evidence field
* tab name field
* date field
* description field, and
* location field.
 |
| Check for Comprehension | Q. Which evidence should be bookmarked for the examiner?A. Any evidence which may be related to the claimed disability, injury, illness or event in service. |
| DEMONSTRATION | Provide a brief demonstration, if possible on bookmarking and annotating documents in VBMS. |

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| Topic 3: Medical Opinion Templates |
| Introduction | This topic will allow the trainee to identify the types of medical opinions and templates. |
| Time Required | .25 hours |
| OBJECTIVES/Teaching PointsSlide 23 | Topic objectives:* Differentiate the types of medical opinions

The following topic teaching points support the topic objectives: * Direct Service Connection Template
* Secondary Service Connection Template
* Aggravation of a pre-service disability
* Aggravation of Nonservice-Connected Disability
* Opinion Regarding Conflicting Medical Evidence
* Requesting Medical Opinions in 1151 Claims
* Medical Opinions Required For Remands
* Independent Medical Opinions
* Processing Requests for an Independent Medical Opinion
 |
| Direct Service Connection TemplateSlide 24Handout 10**Instructor Note**: Emphasize the evidence must be tabbed and annotated in the claim folder for the examiners review. | Type of medical opinion(s) requested: Direct service connectionContention: Claimed Condition: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_The Veteran is claiming that his/her (insert “claimed condition”) was incurred in or caused by (insert “claimed in-service injury, event, or illness”) that occurred (insert “estimated date or time frame”).Opinion request:Is the Veteran’s (insert “claimed condition”) at least as likely as not (50 percent or greater probability) incurred in or caused by (insert “claimed in-service injury, event, or illness”) that occurred (insert “estimated date or time frame”). Rationale must be provided in the appropriate section below. Your review is not limited to the evidence identified on this request form, or tabbed in the claims folder. If an examination or additional testing is required, obtain them prior to rendering your opinion.Potentially relevant evidence:Tab A: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab B: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab C: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab D: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab E: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab F: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Note: The examiner’s review of the record is NOT restricted to the evidence listed below. This list is provided in an effort to assist the examiner in locating potentially relevant evidence.Insert additional instructions to clinician as needed. |
| Secondary Service Connection TemplateSlide 25Handout 10-11 | Type of medical opinion(s) requested: Secondary service connectionContention: Claimed Condition: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_The Veteran is claiming that his/her (insert “claimed condition”) was proximately due to or the result of his or her (insert “service connected condition”).Opinion request:Is the Veteran’s (insert “claimed condition”) at least as likely as not (50 percent or greater probability) proximately due to or the result of (insert “service connected condition”). Rationale must be provided in the appropriate section below. Your review is not limited to the evidence identified on this request form, or tabbed in the claims folder. If an examination or additional testing is required, obtain them prior to rendering your opinion.Potentially relevant evidence:Tab A: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab B: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab C: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab D: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab E: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab F: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Note: The examiner’s review of the record is NOT restricted to the evidence listed below. This list is provided in an effort to assist the examiner in locating potentially relevant evidence.Insert additional instructions to clinician as needed. |
| Aggravation of a pre-service disabilitySlide 26Handout 11 | Type of medical opinion(s) requested: Aggravation of a pre-service disabilityContention: Claimed Condition: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_The Veteran is claiming that his/her (insert “claimed condition”) existed prior to service and was aggravated beyond its natural progression by (insert “claimed in-service injury, event, or illness”).Opinion request:Was the Veteran’s (insert “claimed condition”), which clearly and unmistakably existed prior to service, aggravated beyond its natural progression by (insert “claimed in-service injury, event, or illness”) during service? Rationale must be provided in the appropriate section below. Your review is not limited to the evidence identified on this request form, or tabbed in the claims folder. If an examination or additional testing is required, obtain them prior to rendering your opinion.Potentially relevant evidence:Tab A: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab B: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab C: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab D: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab E: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab F: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Note: The examiner’s review of the record is NOT restricted to the evidence listed below. This list is provided in an effort to assist the examiner in locating potentially relevant evidence.Insert additional instructions to clinician as needed. |
| Aggravation of Nonservice-Connected DisabilitySlide 27Handout 11-12 | Type of medical opinion(s) requested: Aggravation of nonservice-connected disabilityContention: Claimed Condition: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_The Veteran contends that his/her (insert “claimed condition”) was aggravated beyond natural progression by his or her (insert “service connected condition”).Opinion request:Was the Veteran’s (insert “claimed condition”) at least as likely as not aggravated beyond its natural progression by (insert “service connected condition”)? Rationale must be provided in the appropriate section below. Your review is not limited to the evidence identified on this request form, or tabbed in the claims folder. If an examination or additional testing is required, obtain them prior to rendering your opinion.Potentially relevant evidence:Tab A: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab B: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab C: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab D: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab E: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab F: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Note: The examiner’s review of the record is NOT restricted to the evidence listed below. This list is provided in an effort to assist the examiner in locating potentially relevant evidence.Insert additional instructions to clinician as needed. |
| Opinion Regarding Conflicting Medical EvidenceSlide 28Handout 12 | There is conflicting medical evidence. We are asking that you review this medical evidence and provide an opinion. The following is a summary of the conflicting medical evidence as it relates to the Veteran’s claim:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Potentially relevant evidence:Tab A: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab B: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab C: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab D: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab E: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tab F: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Note: Rationale must be provided in the appropriate section below. Your review is not limited to the evidence identified on this request form, or tabbed in the claims folder. If an examination or additional testing is required, obtain them prior to rendering your opinion.Insert additional instructions to clinician as needed. |
| Requesting Medical Opinions in 1151 ClaimsSlide 29, 30Handout 12-13 | When requesting a medical opinion for a claim involving benefits under [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/text/38/1151), use the [ERB tool](http://vbacodmoint1.vba.va.gov/bl/21/sitevisit/docs/ExamRequestBuilder.docm) to generate the appropriate language. Ensure the generated request asks the provider only the specific opinion(s) required by the facts of the case.***Note***: Do *not* request an examiner under VA’s contract examination program to provide an examination or medical opinion on a claim involving benefits under [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/text/38/1151).To clarify whether the care, treatment, or examination at issue resulted in additional disability or death, it may be necessary to obtain* a medical opinion from a VA medical facility
* a medical statement provided by a Veterans Health Administration (VHA) medical officer assigned to a regional office (RO), such as a physician, physician’s assistant, or registered nurse, or
* independent medical evidence, including, but not limited to
	+ information from a medical treatise, such as *The Merck Manual of Diagnosis and Therapy, Cecil Textbook of Medicine,* or *Physician’s Desk Reference (PDR)*, and/or
	+ an independent medical opinion under [38 CFR 3.328](http://www.ecfr.gov/cgi-bin/text-idx?SID=4d6e7ef80939549627db08c31278d7ad&mc=true&node=se38.1.3_1328&rgn=div8), but only when warranted by the medical complexity or controversy involved in the case.

The threshold for requesting an examination and/or opinion in a claim under 38 U.S.C. 1151 for a disability resulting from VA care is the same threshold as applies to regular claims for SC compensation benefits as described in [38 CFR 3.159(c)(4)](http://www.ecfr.gov/cgi-bin/text-idx?SID=ddbd086305fa28d8fc9d12ec0aa5d34a&mc=true&node=se38.1.3_1159&rgn=div8). Request an examination or medical opinion if the evidence of record does not contain sufficient competent medical evidence to decide the claim but* contains competent lay or medical evidence of a current diagnosed disability or persistent or recurrent symptoms of disability, and
* establishes that the claimed additional disability may be causally associated with VA hospital care, medical or surgical treatment, or examination.

***Important***: As discussed in [*McLendon v. Nicholson*](http://vbaw.vba.va.gov/bl/21/advisory/DADS/2006dads/Mclendon.doc), 20 Vet.App. 79 (2006), the threshold for providing a VA examination must be low. Do not require that the evidence of record prove a nexus between the asserted injury or event and the current disability or competent medical evidence of fault before providing the Veteran with a VA examination or opinion. |
| Medical Opinions Required For RemandsSlide 31Handout 13 | When requesting an opinion in compliance with BVA remand instructions explain specifically what is needed. Quoting the instructions from BVA on the medical opinion request may be helpful, but try to avoid legal jargon.***Important***: Do not simply refer the examiner to the claims folder containing the remand instructions. |
| Independent Medical OpinionsSlide 32Handout 14 | If warranted by the medical complexity or the controversy of a pending claim, an independent medical opinion under [38 CFR 3.328](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=4f37eddd401a23753883deb8ce72d226&ty=HTML&h=L&r=SECTION&n=se38.1.3_1328) may be obtained from medical experts who are not VA employees.***Notes***: * VA Central Office has the responsibility for deciding if the independent medical opinion is warranted and what medical expert to use.
* Under [38 CFR 3.328](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=4f37eddd401a23753883deb8ce72d226&ty=HTML&h=L&r=SECTION&n=se38.1.3_1328), contract examiners who perform examinations during the usual claims process are considered hired in the service of VA; and therefore, are not appropriate medical experts for the purposes of providing an independent medical opinion.

A request for an independent medical opinion under [38 CFR 3.328](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=4f37eddd401a23753883deb8ce72d226&ty=HTML&h=L&r=SECTION&n=se38.1.3_1328), in conjunction with a pending claim, may be initiated by the* RO
* claimant, or
* claimant’s representative.
 |
| Processing Requests for an Independent Medical OpinionSlide 33*Handout 14-15* | The table below describes how to process a request for an independent medical opinion under [38 CFR 3.328](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=4f37eddd401a23753883deb8ce72d226&ty=HTML&h=L&r=SECTION&n=se38.1.3_1328) and identifies the responsible parties.

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| **Stage** | **Who is Responsible** | **Description** |
| 1 | * RVSR
* DRO, or
* service organization representative
 | Brings the request for an independent medical opinion to the attention of the VSCM. |
| 2 | VSCM | Decides whether the request has merit. |
| 3 | VSCM | Does the request have merit?* If *yes*, refers the request to Compensation Service (211) for review.
* If *no*, denies the request without the need for referral to Compensation Service.

***Important***: This determination may be contested as part of an appeal on the primary issue under consideration. |
| 4 | Compensation Service | Decides whether the request has merit. |
| 5 | Compensation Service | Does the request have merit?* If *yes*
	+ notifies the claimant that the request has been approved
	+ obtains the opinion from the appropriate medical expert, and
	+ sends a copy of the opinion when it is available.
* If *no*, denies the request.

***Important***: This determination may be contested as part of an appeal on the primary issue under consideration. |

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| check for comprehension | Q. Which one of the following medical opinions are to be requested by RVSRs only?1. Direct Service Connection
2. Secondary Service Connection
3. Aggravation of a pre-service disability
4. Aggravation of Nonservice-Connected Disability
5. Opinion Regarding Conflicting Medical Evidence
6. Requesting Medical Opinions in 1151 Claims
7. Medical Opinions Required For Remands
8. Independent Medical Opinions

A. 3, 4, 5, 6, 7, and 8 |

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| Topic 4: Medical Opinion Tools |
| Introduction | This topic will allow the trainee to utilize the tools necessary to request medical opinions. |
| Time Required | .25 hours |
| OBJECTIVES/Teaching PointsSlide 34 | Topic objectives:* Identify the tools and steps required to request medical opinions

The following topic teaching points support the topic objectives: * Compensation and Pension Examination Request Routing Assistant (ERRA) web tool
* Index of DBQ/Exams by Disability Tool
* Exam Request Builder (ERB) Tool
* Review the ERB Exam Request Language
* CAPRI
* CAATS
* Steps to Complete a Medical Opinion Request
 |
| [Compensation and Pension Examination Request Routing Assistant (ERRA) web tool](http://vbacodmoint1.vba.va.gov/bl/21/DEMO/ZIP/default.asp)Slide 34Handout 16 | Identify the examining facility location closest to the Veteran by utilizing the [ERRA tool](http://vbacodmoint1.vba.va.gov/bl/21/DEMO/ZIP/default.asp) |
| Index of DBQ/Exams by Disability ToolSlide 34Handout 16 | The [Index of DBQ/Exams by Disability tool](http://vbacodmoint1.vba.va.gov/bl/21/DBQ/DBQByDisab.asp) allows users to search by a particular word, phrase, or diagnostic code (DC). Input information in the SEARCH CRITERIA text box, and the tool will generate suggested DBQs, DCs, and relevant legacy examination worksheets. |
| Exam Request Builder (ERB) ToolSlide 34Handout 16 | When requesting a medical opinion, Regional Offices (ROs) are required to use the [ERB tool](https://vaww.vba.esp.va.gov/sites/SPTNCIO/focusedveterans/training/VSRvirtualtraining/Curriculum%20Library/Requesting%20Medical%20Opinions/Exam%20Request%20Builder%20%28ERB%29). ***Important***:This is not a training session on how to utilize the ERB. Please refer users to [*Exam Request Builder Training Guide*](http://vbacodmoint1.vba.va.gov/bl/21/sitevisit/docs/exam_builder_info.docx) for more information. |
| Review the ERB Exam Request LanguageSlide 34*Handout 16* | The ERB *DOES NOT* include all the information contained in the medical opinion templates.Make all adjustments as needed prior to completing the request process. |
| CAPRISlide 34*Handout 16* | Use Compensation and Pension Record Interchange (CAPRI) program to request examinations from VHA. |
| CAATSSlide 34*Handout 16* | Use the Centralized Administrative Accounting Transaction System (CAATS) to request examinations from contract examiners. |
| Steps to Complete a Medical Opinion RequestSlide 35 - 42*Handout 16-17* |

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| **Step** | **Action** |
| 1 | Determine which examination facility to use by utilizing the [Compensation and Pension Examination Request Routing Assistant (ERRA) web tool](http://vbacodmoint1.vba.va.gov/bl/21/DEMO/ZIP/default.asp) |
| 2 | * Select the appropriate medical opinion template, and
* populate all required fields in the [ERB tool](http://vbacodmoint1.vba.va.gov/bl/21/sitevisit/docs/ExamRequestBuilder.docm).

**Reference**: For more information, see the [ERB User Guide](http://vbacodmoint1.vba.va.gov/bl/21/sitevisit/docs/exam_builder_info.docx). |
| 3 | Edit the ERB generated medical opinion language to ensure it is case-specific and will result in the necessary opinion. |
| 4 | Create all required tracked items in the appropriate claims-processing system.**Reference**: For more information on creating a tracked item, see* [VBMS User’s Guide](http://vbaw.vba.va.gov/VBMS/docs/VBMS_Release_9_0_UserGuide.pdf), or
* MAP-D [User’s](http://vbaw.vba.va.gov/VetsNet/Claims_Docs/webhelp/Claim_Development1.htm) Guide.
 |
| 5 | Open either the CAPRI or CAATs application. |
| 6 | Select all required exams and medical opinion DBQs. |
| 7 | To reduce the chance that a medical opinion request is missed by an examiner, always type in ALL CAPS “MEDICAL OPINION” as the first line in the exam request remarks field. |
| 8 | Paste the ERB exam request language into the REMARKS field in CAPRI or the appropriate fields in CAATS. |

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| check for comprehension | Q. Which tool provides the nearest VA Examination facility?A. The ERRA toolQ. Which tool is utilized to request contract examinations?A. CAATSQ. Which tool is required to use when building a medical opinion prior to inputting the information into CAPRI or CAATS?A. The ERB. |
| DEMONSTRATION | Provide a demonstration of requesting a medical opinion utilizing all the tools in this topic. |

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| Lesson Review, Assessment, and Wrap-up |
| IntroductionDiscuss the following: | The Requesting Medical Opinion lesson is complete. Review each lesson objective and ask the trainees for any questions or comments. |
| Time Required | .75 hours  |
| Lesson Objectives | You have completed the Requesting Medical Opinion lesson. The trainee should be able to: * Indicate who may request a medical opinion
* Identify the regulation governing requesting medical opinions
* Identify evidence for medical opinions
* Identify the tools and steps required to request medical opinions
* Differentiate the types of medical opinions
 |
| Assessment *Handout 18* | 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. |