

The VA Compensation and Pension (C&P) exam is the second most important event in your disability claim.

Once the VA deems your claim to have **merit** (most important step) the VA will most likely send you to a C&P exam. This exam can be in person or as a record review to get a medical opinion (IMO). Most likely it will be an in-person exam where you will talk (virtual) or meet with a contracted medical practitioner. The purpose is to determine if your disability is service-connected or if the disability is concurrent since service.

It is at the C&P exam where 90% of the decision is made. The examiner will complete a VA disability benefits questionnaire (**DBQ**). This is a form created by the VA in 2008 to standardize the opinion of the examiner in a standard format that directly translates the medical opinion and **NEXUS** into a format that a VA Disability Review Officer (**DRO**) can determine the percentage to be awarded.

When you file your claim, you suggest at least one NEXUS as a theory. Many veterans fail to realize they can suggest multiple theories (NEXUS) at the same time and therefore only rely on the default Primary.

The VA uses the term NEXUS to determine how or if your disability is service-connected. There are four NEXUS theories.

1. Primary
2. Secondary
3. Aggravate
4. Health care or vocational conditions that worsen the veteran (38 U.S.C. 1151)

Primary disabilities are disabilities that can be directly connected to your service through your service treatment records (**STRS**), buddy statements, or presumptive conditions or situations established by law or regulation. The most recent additions to the Presumptive laws were the PACT ACT on August 10, 2022. If you have a presumptive condition, you do not need to prove your service-caused condition.

Secondary disabilities are disabilities that are a consequence of primary disabilities. For example, if you have a service-connected disability for tinnitus, it is assumed you can have a secondary disability for anxiety. Once a secondary disability is awarded it is treated the same as all service-connected disabilities and therefore there are no negative financial consequences.

Aggravated disabilities are disabilities that preexisted your enrollment in the service and therefore are recorded in your entry medical exam. However just because you have a prior disability it does not mean that the service could not have aggravated it and made it worse. For example, assume you broke your left femur before you joined the military and when you entered the military the examiner recorded your left femur to be 10% disabling. Now assume after several years of active duty service you broke your left femur again and this time your femur is determined to be 30% disabled. The VA will subtract the current disability rating (30%) from your entry (10%) to rate you as 20% service connected by aggravated.

Health care or vocational accidents via **38 U.S.C 1151** is caused by medical care accidents or situations that worsen health then that disability can be service connected just as if it happens in the service.

Before attending your Compensation and Pension (C&P) exam, it is critical to ensure that you have **thoroughly prepared** and filed your NEXUS theories for each of your disabilities. This preparation includes having adequate verbal and written support to present during the exam. It's important not to assume that the C&P examiner has already received all the documents you submitted with your claim. Therefore, you should bring all your supporting documents to the exam. During the exam, it is advisable to ask the examiner to review these documents while you are present and to feel free to ask any clarifying questions. This proactive approach helps ensure that all relevant information is considered in evaluating your claim.

During the Compensation and Pension (C&P) exam, one significant opportunity for **Veterans is to actively engage with the examiner** by asking questions to verify their qualifications, especially in relation to specific aspects of your claim. For instance, if your claim involves service-connected issues like toxic exposure or radiation, it's advisable to inquire about the examiner's experience or expertise in these specific areas.

There's a possibility that the examiner may not have specialized knowledge in the particular area of your claim. If you discover that the **examiner lacks the necessary expertise**, it's important to remain courteous and complete the exam. However, within 72 hours following the exam, you should contact the VA hotline or submit a Statement in Support. In this statement, request a re-examination with an examiner who possesses the appropriate qualifications. When making this request, be clear and specific about why you believe the initial examiner was unqualified to assess your claim. This approach ensures that your evaluation is conducted by someone with the right expertise, thereby increasing the likelihood of a fair and thorough assessment of your claim.

In summary, the Compensation and Pension (C&P) exam is a critical stage in the VA disability claim process, as it is **where most of the vital information and decisions are made**. The Disability Benefits Questionnaire (DBQ) filled out by the C&P examiner significantly influences the outcome of your claim. While a VA Disability Review Officer (DRO) has the authority to override the findings of a C&P examiner, such instances are uncommon. Generally, the VA's decision to award or deny a claim is based largely on the assessment made during the C&P exam.

If you're considering appealing a prior decision, or are in the process of an appeal, it can be very beneficial to file a request under the **Freedom of Information Act (FOIA)** to obtain records of your previous C&P exams. Accessing these records allows you to understand the specific reasons behind the VA's decision to either deny or award your claim. Reviewing the details of past exams can provide valuable insights into how the VA reached its decision and can help you prepare a more effective appeal by addressing the specific concerns or deficiencies noted in the previous evaluation.