

## Practice Exam Questions

You have 2 hours to complete this exam. This exam is comprehensive examination containing true and false and multiple choice questions. You must have 75 out of the 100 questions correct to pass. Please print and sign below.

---

Print Name

---

Sign

1. If the evidence shows a diagnosis of diabetes mellitus within 1 year of an honorable separation from military service for a veteran with no known exposures to anything that might cause it, is service connection warranted?
  - a. Yes, under 3.309 (a).
  - b. No, under 3.309 (e), diabetes mellitus can only be granted on a presumptive basis if the veteran was exposed to Agent Orange.
  
2. You win an appeal for a veteran who is retired from the military, awarding him \$20k in retroactive benefits. It is determined that there is no additional cash benefit to the veteran due to military retirement offset. Are you eligible for attorney fees?
  - a. Yes
  - b. No
  
3. How soon must the waiver request be made in order to prohibit the VA from reducing the VA Comp and Pen payment to collect the debt?
  - a. 30 days
  - b. 60 days
  - c. 120 days
  - d. 180 days
  
4. Generally the committee of waivers and compromises is a single person, if the debt exceeds (what amount?) the committee must be at least two.
  - a. \$20,000
  - b. \$25,000
  - c. \$75,000
  - d. 100,000
  
5. When there is no clear medical evidence that the condition became progressively worse other than the natural progression during military service, a veterans statement alone that his disability existed prior to service is sufficient to deny service connection.
  - a. True
  - b. False

6. Is it true that Active Duty for Training includes duty performed as a temporary member of the Coast Guard Reserve?
- True
  - False
7. A veteran is discharged with an other than honorable discharge after AWOL for 190 days. The discharge is binding unless...
- It is patently inconsistent with the laws administered by the VA.
  - The veteran can express extenuating circumstances accounting for his absence, like a cultural family hardship.
  - Medical and psychological evidence of insanity at the time of the offense explaining the AWOL.
  - When the discharge was upgraded in 1977 through the Presidential Proclamation and or through the DOD's special Discharge Program.
  - A, B, and C
  - All of the above
8. After being discharged at noon, the veteran takes a scenic route home and is involved in an automobile accident that very evening. Is he entitled to compensation for those injuries if it is determined that it was not willful misconduct?
- Yes
  - No
9. A claimant's net worth is a factor in determining eligibility for Improved Pension and for continuing eligibility to Section 306 Pension, but is not a factor in determining whether to continue entitlement to Old Law Pension.
- True
  - False
10. According to 38 CFR 3.3(a)(3) for Improved Pension, assuming that at least 1 day of service was during a period of war, the veteran is considered to have met the minimum active duty requirement if he/she...
- Entered service prior to September 7, 1980 and has completed a continuous period of active duty of at least 90 days
  - Entered service after September 7, 1980 and has completed a continuous period of active duty of at least 24 months.
  - Completed at least 90 days of military service at any time.
  - A and B
11. The VA is prohibited from paying both compensation and pension concurrently to an entitled veteran.
- True
  - False

12. When a VA Form 21-22 is completed by a Veterans Service Organization like the DAV or AL, the POA is normally executed in the name of?
- The accredited individual who will prepare and present the claim.
  - The entire organization and any accredited individual employed by that organization may prepare and present the claim.
13. While the VA OGC generally considered 20% of the retroactive award a reasonable fee, the VA OGC can, on a case by case basis, rule that the fee is not reasonable.
- True
  - False
14. The veteran may challenge the amount of the fee awarded to an Agent and or Attorney for any reason?
- True
  - False
15. Which one of the following would not jeopardize an Agent's accreditation?
- Circumvents a rule of conduct through the actions of another
  - Engages in conduct involving fraud, deceit, misrepresentation, or dishonesty.
  - Enters into an agreement for, charge, solicit, or receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation.
  - Solicit, receive, or enter into agreement for gifts related to representation provided for an AOJ decision where no appeal was filed.
  - Delay without good cause the claim process.
  - Mislead, threaten, coerce, or deceive a claimant regarding benefits or rights under VA programs.
  - Engage in, or counsel or advise a claimant to engage in acts or behavior prejudicial to the fair and orderly conduct at the VA.
  - Disclose, without the claimant's authorization, any information provided by VA for purposes of representation.
  - Engage in any unlawful or unethical conduct.
  - Enter into a direct pay fee agreement where the claimant would pay 33% of retroactive award on an appeal of significant complexity.
16. An agent or attorney may be reimbursed for expenses incurred on behalf of a veteran in the prosecution of a claim for benefits pending before VA.
- True
  - False

17. Dependency allowance for a stepchild may be payable for a veteran with a combined rating of at least 30% and proof that the veteran is married to the natural parent of the child and evidence that the child is a member of the veteran's household.
- a. True
  - b. False
18. A veteran in receipt of special monthly compensation "L" based on the factual need of aid and attendance in his home is hospitalized at VA's expense. The VA will...
- a. Discontinue entitlement to SMC "L" effective the month following admission.
  - b. Nothing, veteran still requires aid and attendance even while hospitalized.
  - c. Bill the veteran for the hospitalization, since he in receipt of additional compensation meant to cover such expenses.
19. When a veteran has been incarcerated based on the conviction of a felony. The VA will...
- a. Effective the 61<sup>st</sup> day of incarceration, reduce compensation to the rate of 10% compensation, if he is entitled to a compensation rate greater than 10%.
  - b. Effective the 61<sup>st</sup> day of incarceration, reduced compensation to ½ of 10%, if he is entitled to the 10% rate.
  - c. A or B, effective the 61<sup>st</sup> day of incarceration.
  - d. None of the above, while incarcerated, the veteran is not eligible to receive compensation starting the 61<sup>st</sup> day.
20. As provided in 38 CFR 3.814, Biological children of a veteran who served in Vietnam who suffer with spina bifida occulta are entitled to a special monetary allowance under 38 USC Chapter 18.
- a. True
  - b. False
21. Ongoing payments made directly to a beneficiary who is or may be incompetent will not be routinely suspended pending certification of a fiduciary (or recommendation that payment should be paid directly to the beneficiary) by the Veterans Service Center Manager or development of the issue of competency. This policy applies to all cases where...
- a. Notice or evidence is received that a guardian has been appointed for the beneficiary.
  - b. Notice or evidence is received that the beneficiary has been committed to a hospital.
  - c. The VA has rated the beneficiary incompetent.
  - d. All the above.
  - e. A & C

22. When a veteran's death is nonservice-connected, a burial allowance may be paid subject to the following conditions:
- At the time of the veteran's death he was in receipt of compensation (or but for the receipt of military retirement pay would have been in receipt of compensation).
  - At the time of the veteran's death he was in receipt of pension
  - The veteran had an original or reopened claim for compensation or pension pending at the time of the veteran's death.
  - All the Above
  - A & C
23. The VA will accept a signature by mark or thumbprint if:
- Witnessed by two people who provide their address
  - Witnessed by an accredited agent, attorney, or service organization representative
  - Certified by a notary public or any other person having authority to administer oaths for general purposes.
  - Certified employee of the VA.
  - All the above
  - A, C and D
24. The veteran has been rated at 60% for a low back condition under diagnostic code 5293 for intervertebral disc syndrome with neurological involvement. Upon a routine review of the veteran's evaluations, the VA regional office has determined while no marked improvement, based on new law, the condition should be rated under diagnostic code 5243, the highest rating under the new criteria only 40%. Accordingly, the VA is authorized to...
- Reduce the evaluation to 40% in accordance with the new provisions and consider rating the neurological aspect separately, which might combined to 60%.
  - Leave the current evaluation alone as a change in law cannot form the bases to reduce an evaluation already in effect.
  - Evaluate the neurological conditions separately to determine if a higher rating is warranted.
  - A and C
  - B and C
25. The veteran served in the Army from 1941 to 1945 and was held prisoner for 3 months. He has been service connected at a rating of 50% for anxiety neurosis (combat fatigue) from his discharge in 1945. A couple of years ago he was granted an increased rating to 70% with entitlement to individual unemployability. He died in 2010 as a result of a car accident, after being rated 100% disabling for 16 months. His wife has been married to him for 55 years. Is she eligible for DIC benefits?
- DIC is warranted, even though his death is not service connected, the veteran was a POW.
  - He hasn't been rated at the 100% for a period of 10 years, which is required when the cause of death is not service connected.
  - The VA's decision to rate him only 50% was clearly erroneous, since he was a POW. Based on CUE, the veteran should have been rated 100% from 1945. Correction of this error would render her eligible for DIC benefits.

26. The veteran's service medical records indicate that upon enlistment, he had no disabilities indicated upon the entrance examination. 3 years into service, he reports shortness of breath and wheezing. Impression was exercise induced asthma. The veteran stated that he recalls having asthma problems as a child. He is prescribed an inhaler and returned to duty. He is discharged honorably after 4 years of years completing his obligation. He has applied for service connection. The VA must...
- Deny service connection as the condition preexisted service and there is no evidence that the condition was aggravated by military service.
  - Grant service connection as the condition had its onset while on active duty. The veteran was presumed sound upon enlistment.
  - Determine that the veteran's statement of childhood asthma is sufficient to find the condition preexisted service. They must order a VA examination to determine whether the condition was aggravated by his military service.
  - A and C
27. A total disability rating (100 percent) will be assigned without regard to the rating schedule when...
- Hospitalization is required for a service connected disability in a VA hospital or a VA approved hospital for a period in excess of 21 days.
  - Surgery necessitating at least one month of convalescence for a service connected disability.
  - Immobilization by cast, without surgery, of one major joint or more.
  - A & B
  - All the above
28. Upon discharge from the military, when a total rating is not assignable under the regular provisions of the schedule on the basis is individual unemployability, a prestabilization rating may be assigned for a 12 month period when...
- Unstabilized condition with severe disability and substantial gainful employment is not feasible or advisable at a 100% rating.
  - Unhealed or incompletely healed wounds or injuries where material improvement of employability is likely at a 50% rating.
  - This rating will be subjected to a VA examination between 6 and 12 months.
  - A and C
  - All the above.
29. After submitting a (Blank) within 1 year of a local rating decision, the VA regional office must issue a Statement of the Case (SOC) if they are unable to grant the appeal.
- Notice of Disagreement
  - Reopened Claim
  - Substantive Appeal (VA Form 9)
  - Certification of Appeal (VA Form 8)

30. When a veteran receives a Statement of the Case, how much time does he have to “perfect” his appeal for BVA review.
- 60 days from the SOC
  - 1 year from the rating decision
  - A or B, whichever is later
31. The term “perfected” for an appeal means what?
- The veteran has completed all required actions for his appeal to eventually be considered by the BVA, unless the AOJ can grant it locally or he withdraws it.
  - The VARO no longer has authority to review his appeal.
  - If he submits new evidence or request a personal hearing it must be before the BVA.
  - All the above
32. When the BVA certifies a case, they must inform the veteran that he has right to..
- Change representation
  - Submit additional evidence
  - Request a BVA hearing
  - A & C
  - All the above
33. The evaluation of the same symptoms for 2 similar disabilities under various diagnostic codes...
- is prohibited as it violates the pyramiding. The VA should rate under the disability that provides the highest possible evaluation.
  - is permissible as long as there are two separate conditions even though they have significant overlapping symptomatology.
  - is prohibited as it violates the pyramiding. The VA should rate under the disability that provides the lowest possible evaluation.
34. A veteran has residuals of IED blast injuries to his left lower extremity (below the knee). He has a calf muscle injury, Achilles tendon tear, metatarsal derangement. The VA should...
- Rate each condition separately, which would provide a 50 percent rating with special monthly compensation k for loss of use of the foot.
  - Even though the veteran is eligible for the 50% rating, rate at 40%, as the maximum rating for amputation below the knee is 40% with special monthly compensation k for loss of use of the foot.

35. Loss of use of a foot will be established when the evidence demonstrates...
- LOU will be found when no effective function remains, which would be equally well served by amputation at the site of election below the knee.
  - LOU is determined based on the inability to balance and propel.
  - Extreme unfavorable ankylosis of at least 2 major joints or shortening of the leg at least 3 ½ inches.
  - Common paralysis of the external popliteal nerve with consequent “footdrop”.
  - A & B
  - A, B, & C
  - All the above
36. Under 38 USC 1311 (a)(2), a surviving spouse is entitled to additional kicker to her established DIC benefits when the veteran was rated at 100% for a period of at least 8 years immediately preceding death and she was married to him for a period of 8 years or more prior to his death.
- True
  - False
37. A surviving spouse applies for DIC benefits for a veteran who died of nonservice connected disabilities not due to willful misconduct, which of the following would not be eligible for DIC benefits.
- Rated at 100% for a period of not less than 10 years immediately preceding his death.
  - Continuously rated for a period of not less than 5 years at 100% immediately following separation from military service.
  - A former POW who died after September 1999 and the disability was continuously rated at 100% for a period of at least a year prior to his death.
  - All are eligible for DIC benefits.
38. After receiving a rating decision in January 2010, the veteran submitted a notice of disagreement in February 2010. The DRO issued a SOC in November 2010. Instead of submitting a substantive appeal, the veteran submitted a favorable medical opinion supporting his appeal in December 2010. It is now, February 2011 and the veteran failed to submit his substantive appeal. The VA may...
- Issue a Supplemental SOC or grant his appeal based on the new evidence by issuing a rating decision. The issuance of a SSOC would provide the appellate with a new 60 day period in which to submit his substantive appeal.
  - Close out and disregard the appeal all together, since the new evidence was received within one year of the rating decision. Treat the new evidence as a reopened claim. The VA regional office may consider the evidence as new and material and reconsider the decision all together. If denied, the veteran would get another 1 year period in which to appeal the new decision.
  - A or B
  - Close out the appeal and take no action, since the veteran failed to properly and timely file his substantive appeal.

39. Can service connection be awarded for “blank” that was diagnosed with active duty for training status?
- An injury occurring while in ADT.
  - A disease that happened to be diagnosed while in ADT.
  - Both an injury and a disease stemming from a traumatic incident while in ADT.
40. In order to be eligible for death pension,
- The veteran must have met the basic eligibility requirements for improved pension.
  - The household income must be low enough for entitlement.
  - The surviving spouse must be totally disabled.
  - A & B
41. The veteran served from 1974 to 1976. While on active duty, he reported low back problems. Impression was lumbar-sacral strain. Upon separation, he applied for compensation and was given a VA examination. The examiner determined that there were no abnormalities with the veteran’s low back condition. In 1977, the regional office denied service connection for a low back condition finding that the condition was not found upon examination. In order to reopen his claim, the following evidence will be accepted as new and material.
- Private medical records showing treatment for low back pain in 1975, while the veteran was on active duty.
  - Current private medical records revealing a current diagnosis of chronic lumbar-sacral strain.
  - A new medical opinion that asserts that the veteran had back problems while on active duty.
  - All the above.
42. Which one is not true about the differences between a motion for revision and a motion for reconsideration at the Board of Veterans Appeals.
- A motion for revision will receive a separate docket number and date and be considered by one veteran’s administrative law judge, while a motion for reconsideration does not.
  - A motion for reconsideration must be approved by the Chairman of the Board before it is presented to an expanded panel of veteran administrative law judges.
  - Both are allegations of clear and unmistakable error.
  - Motion for revision, if filed within 120 days, protects the veterans’ right to appeal to the CAVC.
43. What is the deadline to request a waiver of a debt owed to the VA?
- 180 days
  - 90 days
  - 30 days
  - 100 days

44. A Substantive Appeal happens when.
- The NOD is filed within one year of an adverse rating decision.
  - When a Form 9 is completed and submitted in response to a SOC in a timely manner.
  - When the BVA prepares a letter to the appellant indicating that they have received the appeal and will consider it.
  - None of the above
45. If further evidence, clarification of the evidence, correction of a procedural defect, or any other action is essential for a proper appellate decision, a Veterans Law Judge or panel of Veterans Law Judges shall remand the case to the agency of original jurisdiction, specifying the action to be undertaken except when:
- Clarifying a procedural matter before the Board, including the appellant's choice of representative before the Board, the issues on appeal, or requests for a hearing before the Board.
  - Consideration of an appeal, in accordance with 38 CFR 20.903(b) of this chapter, with respect to law not already considered by the agency of original jurisdiction. This includes, but is not limited to, statutes, regulations, and court decisions.
  - Reviewing additional evidence received by the Board, if, pursuant to 20.1304(c) of this chapter, the appellant or the appellant's representative waives the right to initial consideration by the agency of original jurisdiction, or if the Board determines that the benefit or benefits to which the evidence relates may be fully allowed.
  - All of the above.
46. Is new and material evidence required when the veteran is seeking a higher rating for a previously service connected disability that he now feels has become more severe?
- Yes, the VA RO needs evidence that shows the condition has gotten worse.
  - No, even if the veteran hasn't been treated in many years. Just submit the claim.
47. The provisions of 38 USC § 1154(b) deals with:
- DIC benefits
  - Pension
  - Combat veterans
  - All of the above
48. To initiate an appeal of a VA decision, how long from the date of the notice of the decision does a claimant have to file a Notice of Disagreement (N.O.D.)?
- 60 days
  - 3 months
  - 1 year
  - There is no time limit

49. A veteran is service connected for PTSD at 10%, Diabetes for 20%, a Left Knee Condition for 10% and Right Wrist Injury at 10%. What is his total disability rating?
- 50% with bilateral factor
  - 40%
  - 35%
  - None of the above
50. The veteran has been in receipt of individual unemployability benefits for 3 years and has a combined rating of 60% for injuries sustained in combat. After submitting a statement to the VA regional office that he has been hired to work for a local real estate company, the regional office has issued a decision to terminate his entitlement to IU effective immediately. The veteran agrees with this determination, but acting as his advocate, what would you do?
- Accept the reduction and encourage the veteran to let you know if he has employment problems in the future.
  - Challenge the VA's decision arguing that the veteran should be given a period of not less than 12 months to demonstrate that he can sustain the employment.
  - Advise the veteran to quit as he has jeopardized his VA benefits and his new income will be less than what he is receiving now.
  - B and C
51. The veteran has been rated at 70% for PTSD for a period of 8 years. He reports for a routine VA C&P exam at the request of the regional office. Based on the results of this one exam, the AOJ has proposed to reduce the evaluation from 70% down to a rating of 50%. What would be the best step for an advocate?
- Submit a Notice of Disagreement; it is erroneous to reduce the veteran using only one examination.
  - Request a predetermination hearing so that the veteran can testify to the severe nature of his condition and or submit evidence within 60 days of the AOJ decision rebutting the findings of the examination.
  - Submit a memorandum within 60 days of the AOJ's decision asserting that the decision violates 38 CFR 3.344.
  - B & C
52. A veteran is rated 40% for a low back condition resulting from an automobile accident during service and 30% for a left knee condition resulting from the same accident. She is unable to work because of these injuries. Does she meet the basic schedular requirements for total disability based on individual unemployability (TDIU) (without resorting to extraschedular TDIU)?
- Yes, she has one 40 rating and 40 plus 30 add up to 70%
  - Yes, she has one 60% rating, since the back and left knee disabilities stem from the same accident.
  - No
  - It depends on whether there is evidence that she was able to obtain or retain post-service employment.

53. The effective date for an award of service connection will be:

- a. The date the veteran submitted the claim.
- b. The date the veteran's disability was diagnosed.
- c. A or B, whichever is earlier and more advantageous to the veteran.
- d. A or B, whichever is later and less advantageous to the veteran

54. Section 306 Pension and Old-Law Pension are often referred to as Protected Pension as a veteran in receipt of this benefit may not be transferred into the Improved Pension program unless they elect to do so. Because the Old Law and Section 306 Pension programs have been phased out, a person filing a claim for pension benefits must qualify under the Improved Pension program.

- a. True
- b. False

55. The BVA is free to perform the following without being subjected to remand...

- a. Request an independent medical opinion to resolve a complex medical issue.
- b. Seek a legal opinion from the Office of General Counsel to address a question of interpretation of a VA regulation.
- c. Grant the benefit sought on appeal when new and material evidence without a waiver of AOJ jurisdiction when such evidence is received after the 90 day period expired.
- d. A & B only
- e. All the above

56. If the BVA denied service connection for a back condition in January 2010 and the veteran submits new and material evidence to the regional office in February 2010, which results in the RO granting service connection. The following statements are true except...

- a. The effective date is the date of the reopened claim in February 2010.
- b. A Fee can be awarded to the Agent, since the issue was on appeal.
- c. The evaluation for the back condition can be appealed

57. According to 38 CFR 1.911, when a veteran challenges the amount owed from an individual participating in a VA benefit or Home Loan program, and the VA determines that an overpayment amount was proper and renders a decision indicating the amount owed and specific reasons for the debt, does the veteran have 1 year to appeal this decision?

- a. Yes, paragraph (c)(3) provides..."In accordance with parts 19 and 20 of this title, the debtor may appeal the decision underlying the debt."
- b. No, the appeal must be submitted within 180 days as provided under section 1.963 and 1.964.

58. Once any non-tax debt or claim that has been delinquent for a period of 180 days or more, the Secretary of Treasury may, when appropriate, take more aggressive steps towards collecting the debt by capturing potential tax refund payable to the debtor.

- a. True

b. False

59. The Committee on Waivers and Compromises must consider all the following standards as per 38 CFR 1.965 when considered a request for a waiver of overpayment except:

- a. Fault of the debtor
- b. Balancing of faults between the VA and the debtor.
- c. Undue hardship as to whether collection would deprive debtor and family of basic necessities
- d. It would defeat the purpose. The withholding of benefits or recovery would nullify the objective for which the benefits were intended.
- e. Unjust enrichment resulting in unfair gain to the debtor
- f. Whether there was fraud, misrepresentation of a material fact, or bad faith on the part of the debtor
- g. Character consideration, whether the debtor has been convicted of a felony on a different matter which might call into question the integrity of the debtor.

60. Mr. Jones was drinking at the Officer's Lounge and had too many. The bartender cut him off and encouraged him to return to his room and sleep it off. On his way back to his room, a subordinate soldier spotted him and approached him. A confrontation ensued and Mr. Jones suffered significant injuries to his head and left shoulder. The soldier was found guilty of misconduct and dishonorably discharged from the military. Mr. Jones was unable to recover from his injuries. Since he had only 3 months left before he separated, he was placed into limited duty status and separated with an honorable discharge. According to 3.301(c)(2) is the veteran eligible for compensation benefits for the injuries he suffered in the altercation?

- a. Yes.
- b. No, it is willful misconduct.

61. Within 3 years after separation, a veteran is diagnosed with pulmonary TB. Is service connection warranted as a chronic disease presumed related to his military service?

- a. Yes
- b. No

62. The veteran was captured by the Germans during WW11, but escaped after 23 days of captivity. He now suffers with Beriberi heart disease. Is service connection warranted as a presumptive condition under 38 CFR 3.309 (c)(2)(ii)?

- a. Yes
- b. No

63. The veteran served in Vietnam for 11 months. He was diagnosed with Chloracne and sub-acute peripheral neuropathy within 3 years after his discharge. The condition cannot be attributed to any other factor. Is service connection warranted as a presumptive condition under 38 CFR 3.309 (e)?

- a. Yes
- b. No

64. A veteran who has a service connected amputation of one lower extremity at or above the knee or service connected amputations of both extremities at or above the ankles and later develops cardiovascular disease. It will be held as proximately due to the service connected amputation(s) as per 38 CFR 3.310(c).

- a. True
- b. False

65. If a service connected disability aggravates a non service connected disability, service connection may be granted for the increased disability of the non service connected disability?

- a. True
- b. False

66. For Improved Pension as per 38 CFR 3.323, the VA RO may combine the effects of both service connected and non service connected disabilities to determine total disability for eligibility purposes.

- a. True
- b. False

67. According to 38 CFR 3.326 (c), provided that it is otherwise adequate for rating purposes, a statement from a private physician may be accepted for rating a claim without further examination. In other words, the VA can rate on evidence provided by a private doctor without relying upon a VA C&P examination.

- a. True
- b. False

68. When a veteran suffers from two or more separate service connected disabilities that clearly interfere with normal employability, and none of the disabilities is rated at a compensable degree, nevertheless, the VA may award a 10 percent rating, but no in combination with any other rating.

- a. True
- b. False

69. According to 38 CFR 3.355, testamentary capacity is that degree of mental capacity necessary to enable a person to perform a testamentary act. This, in general, requires that the testator reasonably comprehend the nature and significance of his act, that is, the subject and extent of his disposition, recognition of the object of his bounty, and appreciation of the consequence of his act, uninfluenced by any material delusion as to the property or persons involved. The mere conclusion that a person is insane or mentally incompetent is sufficient to find that a person lacks testamentary capacity.

- a. True
- b. False

70. As per 38 CFR 3.383, there is special consideration for paired organs. As long as the disability is not due to willful misconduct service connection can be granted for non-service kidney disease when loss of the other was service connected?

- a. True
- b. False

71. According to the provisions of 38 CFR 3.385, impaired hearing will be considered to be a disability when the auditory threshold in any of the frequencies 500, 1000, 2000, 3000 & 4000 Hertz is 40 decibels or greater; or when the auditory thresholds for at least three of the frequencies are 26 decibels or greater; or when speech recognition scores using the Maryland CNC test are less than 94 percent.

- a. True
- b. False

72. The veteran died January 13, 2010. The surviving spouse received his VA disability compensation payment on February 1, 2010. She has applied for DIC benefits, since he was rated at 100 percent for more than 10 years and she was married to him for more than 8 years. What should she do with the VA disability compensation payment?

- a. Return it; she is not entitled to it.
- b. Keep it; the veteran's compensation payment was 1 month behind.
- c. Keep it until a final decision is made on the DIC benefit to pay for her expenses and if requested pay it back in increments through the overpayment process.

73. The veteran failed to report for a VA C&P examination for an original claim. He refuses to go as he feels the evidence from his private doctor is sufficient and doesn't want to travel 2 hours to the VA medical center. He is claiming service connection for diabetes mellitus as a result of his service in Vietnam. He has submitted his private medical records documenting a clear diagnosis and the treatment modalities.

- a. The VA can deny his claim as he is required to report for a VA C&P examination ordered as indicated in 38 CFR 3.655 (a).
- b. The VA must decide his claim based on the evidence of record without benefit of the VA C&P examination as per 3.655 (b).

74. When a veteran fails to report for a routine VA C&P examination regarding continuation of a "running award", as per 38 CFR 3.655(c):

- a. The VA must issue a predetermination notice advising the veteran that his running award will be discontinued.
- b. The VA must leave his "running award" alone if it is protected under 3.951(b).
- c. A and B
- d. The VA must issue a letter encouraging the veteran to report and make a second attempt to schedule the examination before taking any other action.

75. There is a “special pension” available to individuals awarded the Medal of Honor as per 38 CFR 3.802.

- a. True
- b. False

76. A clothing allowance is warranted for a veteran with a service connected disability that requires the use of a prosthetic device or brace that damages his or her clothes.

- a. True
- b. False

77. The rules governing awards under the Nehmer Court orders for disabilities or death caused by conditions presumptively associated with herbicide exposure can be found under 38 CFR 3.816.

- a. True
- b. False

78. The veteran has been service connected for anxiety disorder for the past 20 plus years. Initially, he was rated at 50% from January 1990. He was reduced to 30% in July 1990. He was increased to 70% in 1998. Recently, the VA has determined that a reduction to 10% is warranted based on material evidence to include a VA C&P examination, outpatient treatment records from the VAMC, and private medical records from his psychologist clearly showing improvement.

- a. The rating cannot be reduced to a rating lower than 30 percent, since it has been in effect for more than 20 years.
- b. The rating cannot be reduced lower than 70 percent, since it has been in effect for more than 10 years.
- c. Since the rating has been in effect for more than 5 years, it cannot be reduced relying solely on one VA examination.
- d. A and C

79. The Vietnam veteran has been service connected for diabetes type I since 1999. Initially, the VA regional office granted service connection as a presumptive condition under 3.309(e) as due to herbicide exposure (Agent Orange). The VA regional office determined that service connection was not in order, since presumptive only extends to Type II diabetes and has determined that service connection should be severed. Can the VA sever service connection? Explain the basis for your answer.

- a. Yes... \_\_\_\_\_
- b. No... It's protected once service connection has been established for 10 years \_\_\_\_\_

80. According to 38 CFR 20.305, in computing the time limit for filing a written document like a notice of disagreement, where the time limit would expire on a Saturday, Sunday, or legal holiday, the next succeeding workday will be included in the computation.

- a. True
- b. False

81. A veteran was diagnosed with HIV while on active duty. He admits homosexual activity and no other risk factors which may have led to the infection. Does he have a valid claim for VA compensation benefits?
- No, compensation is not payable for illnesses that are the result of willful misconduct.
  - Yes, the condition had its onset coincident with military service.
82. When a veteran believes he or she has been injured by VA medical care, he or she should consider:
- filing a claim compensation as if service connected for the condition under 38 U.S.C. § 1151
  - filing a claim with the Board of VA Claims
  - contacting an attorney for help in filing a claim for monetary recovery under the Federal Tort Claims Act (FTCA)
  - A and C
83. The VA must receive a veteran's substantive appeal form (Form 9):
- within 60 days of the date of the statement of the case (SOC)
  - within 45 days of the date of the SOC
  - within one year of the date the regional office (RO) mailed its original notice letter
  - A or C
84. Which of the following is not an option available to claimants who are dissatisfied with a Board of Veterans' Appeals (BVA) decision?
- request reconsideration from the BVA
  - attempt to reopen the claim at the regional office
  - appeal to the U.S. Court of Appeals for Veterans Claims
  - appeal to United States Federal Circuit Court
85. If the Board of Veterans' Appeals (BVA) chairman grants a motion for reconsideration, then:
- it means that the earlier BVA decision is vacated, and that an expanded panel of board members will review the appeal *de novo*, without being influenced by the first, vacated, BVA decision
  - it means that the chairman of the BVA will consider whether the previous BVA decision is reasonable
  - it means that the VA regional office must make another determination
  - it means that the claimant will obtain the benefits that were previously unjustly denied

86. One requirement for appealing to CAVC is:

- a. Notice of Appeal filed with the Court within 120 days after the date of the BVA decision
- b. Notice of Appeal filed with the Court within 60 days after the date of the BVA decision
- c. the claimant must retain an attorney admitted to the bar of the CAVC
- d. A and C

87. Once the VA creates an overpayment, the claimant has the right to:

- a. ask the VA to waive the overpayment
- b. challenge the existence of the overpayment
- c. challenge the amount of the overpayment
- d. answers A, B, and C
- e. answers A and B

88. If the veteran fails to respond to the VA's notice of overpayment letter within 30 days, the VA can:

- a. Collect the debt directly from the veteran even if it means that he must sell private property.
- b. Employ a collection agency to force the veteran to begin making reasonable payments towards the debt.
- c. Reduce or discontinue the veteran's monthly disability payment (compensation or pension) to cover the debt
- d. All of the above

89. Which statement below is FALSE?

- a. Upon receiving a Notice of Disagreement (NOD) and before the RO issues the Statement of the Case (SOC), the RO will notify the claimant in writing of his or her right to a Decision Review Officer (DRO) review. The claimant has 60 days after the date the VA mails the notice to request DRO review.
- b. The DRO cannot reverse a decision that the previous decision-maker made unless the DRO finds that the decision contains clear and unmistakable error (CUE).
- c. If the claimant requests DRO review, the DRO will issue a new decision after considering all evidence of record and applicable laws, and without giving any deference to the decision being reviewed.
- d. A DRO review may be requested at the same time a Notice of Disagreement (NOD) is filed.

90. The veteran appealed a denial of a waiver of overpayment and the VA has recouped the entire amount. The appeal reaches the BVA. The BVA finds that although the veteran was not entitled to the money, grants the veteran's request for a waiver based on the finding that recoupment would create an undue hardship on the veteran. The VA will:

- a. Issue a check for all the money recouped.
- b. Do nothing...the money was already recouped.
- c. Make a settlement offer.
- d. Determine an amount that would alleviate the hardship and issue a check for that amount.

91. The term *radiation-risk activity* for VA purposes means:
- Service on or around nuclear reactors or x-ray equipment
  - Onsite participation in test involving atmospheric detonation of nuclear device.
  - The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.
  - All the above.
  - Only B & C
92. A power of attorney may be revoked at any time, and an attorney may be discharged at any time. Unless a claimant specifically indicates otherwise, the receipt of a new power of attorney shall constitute a revocation of an existing power of attorney.
- True
  - False
93. Dependency and indemnity compensation is not payable to a parent or parents whose annual income exceeds the limitations set forth in 38 U.S.C. 1315 (b), (c), or (d)
- True, as per 38 CFR 3.25 & 3.251, Parental DIC is an income based entitlement.
  - False, DIC is payable regardless of the recipient's income.
94. Accrued benefits are payable for?
- Service-connected disability compensation benefits for which the veteran would have been entitled had the claim been properly adjudicated the first time.
  - Any VA monthly benefit payable to a surviving spouse for which the veteran would have been entitled had it not been for his or her demise.
  - Any VA Improved Pension payable over a period of time that it took the VA to calculate the monthly award given the veteran's income and expenses.
  - DIC benefits payable to the surviving spouse.
95. An attorney must be accredited to assist a veteran in filing a claim for benefits when the service is free?
- True
  - False
96. In order to be eligible for a 20% retroactive fee on an award, an independently accredited agent must have won an appeal where the Notice of Disagreement was filed on or after...
- June 20, 2007
  - November 17, 2006
  - January 19, 2007
  - January 21, 2008

97. According to 38 C.F.R. § 14.636(g)(3), a copy of every fee agreement must be filed with the Office of General Counsel within how many days of its execution?

- a. 45 days
- b. 30 days ...no longer true, this requirement has since been eliminated for standard 20% agreements
- c. 60 days
- d. 15 days

98. A copy of every executed fee agreement must be filed within 30 days of execution with the VA regional office of jurisdiction.

- a. True, According to 38 C.F.R. § 14.636(h).
- b. False

99. As per 38 CFR 3.380, diseases of allergic etiology, including bronchial asthma and urticaria, may be disposed of routinely as constitutional or developmental abnormalities.

- a. True
- b. False