

**ONE HUNDRED AND THIRD NATIONAL CONVENTION
OF
THE AMERICAN LEGION
Milwaukee, Wisconsin
August 30, 31, September 1, 2022**

Resolution No. 33: Disability Rating Criteria

Origin: Minnesota

**Submitted by: Convention Committee on Veterans Affairs & Rehabilitation
(As Amended)**

WHEREAS, The Department of Veterans Affairs' (VA) rating schedule is primarily a guide in the evaluation of disabilities resulting from all types of diseases and injuries encountered because of an incident in military service, and the percentage of ratings represent as far as can practicably be determined the average impairment in earning capacity, resulting from such diseases and injuries and their residual conditions in civil occupations; and

WHEREAS, The degrees of disability specified are considered adequate to compensate for considerable loss of working time from exacerbations or illnesses proportionate to the severity of the several grades of disability; and

WHEREAS, In September 2017, VA proposed rule changes for the VA Schedule for Rating Disabilities for the first time since 1945, which are the federal regulations used by claims processors to determine the severity of disabilities related to military service and decide claims; and

WHEREAS, On February 15, 2022, VA proposed rule changes for the Schedule for Rating Disabilities (VASRD) specifically pertaining to the respiratory/auditory conditions and mental disorders; and

WHEREAS, On February 15, 2022, VA proposed rule changes for sleep apnea rating criteria that only consider the effectiveness of the treatment rather than basing it on severity of symptoms and the effects of using equipment like C-PAP machines for the rest of their lives; and

WHEREAS, On February 15, 2022, VA proposed rule changes for its regulation to remove tinnitus as a stand-alone condition and only award a 10 percent evaluation for tinnitus when a non-compensable hearing loss evaluation is awarded; and

WHEREAS, On February 15, 2022, VA updated its disability rating criteria for mental disorders, placing greater emphasis on a disabled veteran's ability to function in a work setting, rather than focusing on symptoms, like frequency, intensity, and duration alone; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Milwaukee, Wisconsin, August 30, 31, September 1, 2022, That disability ratings should not be based on the effects of treatment, regardless of whether such treatment results in improved earning capacity and that many veterans can only obtain gainful, substantial employment because their symptoms are mitigated through treatment and continuing oversight, but the condition is not cured; and, be it further

RESOLVED, That tinnitus diagnostic code 6260 be retained in the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD), representing a stand-alone condition that is consistent with several court decisions that recognize tinnitus as a stand-alone condition; and, be it further

RESOLVED, That disability ratings for mental health disorders should continue to be based on the frequency, severity, and duration of symptoms, which can have serious effects on a veteran's quality of life; and, be it finally

RESOLVED, That VA justify in detail the appropriateness of VA rating the disabilities of U.S. veterans using the World Health Organization's criteria, based on the entire world population rather than veterans who have experienced traumas and disabilities from military service.