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

Resolution No. 11: Value of Lay Evidence
Origin: Virginia
Submitted by: Convention Committee on Veterans Affairs & Rehabilitation

WHEREAS, 38 CFR § 3.159(a)(2) defines competent lay evidence as any evidence not requiring that the proponent have specialized education, training, or experience if it is provided by a person who has knowledge of facts or circumstances and conveys matters that can be observed and described by a lay person; and

WHEREAS, Department of Veterans Affairs (VA) regulations are no less binding on rating personnel at VA regional offices than they are on veterans law judges at the Board of Veterans' Appeals; and

WHEREAS, The Board of Veterans' Appeals frequently relies on lay evidence to support continuity of symptoms after active service or otherwise support the veteran's contentions pertaining to the origin of a claimed condition or aggravation of a preexisting claimed condition during military service; and

WHEREAS, In 2021, the Board of Veterans' Appeals granted at least one issue on appeal in 28.7% of American Legion-represented cases sent to the Board and remanded 45.8% for additional evidence, decisions that often included often included lay evidence; and

WHEREAS, VA regional office rating specialists often disregard lay evidence in determining whether claimed conditions are service connected; and

WHEREAS, Failure to give appropriate probative value to lay evidence in accordance with 38 CFR § 3.159(a)(2) can lead to unfair denials of VA benefits or create unnecessary delays in reaching a favorable decision; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Milwaukee, Wisconsin, August 30, 31, September 1, 2022, That The American Legion urges the Department of Veterans Affairs (VA) to ensure that VA rating specialists, supervisors and managers involved in the preparation of rating decisions at VA regional offices receive appropriate directives and training so that lay evidence is accorded the same probative value when being considered at the VA regional office level that it is accorded in cases decided at the Board of Veterans' Appeals.