Sleep Disorders Associates
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SLEEP DISORDERS ASSOCIATES

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DIRECTOR

[redacted]

This letter has been provided to the Veteran for submission to the Department of Veterans Affairs.

RE: [redacted]

Dear VA Rater and Examiner:

The Veteran named above has obstructive sleep apnea and his sleep apnea is being treated with CPAP. My expert opinion is that it is more likely than not that this Veteran's obstructive sleep apnea began while he was on active duty.

I write this opinion as an expert in sleep medicine. I am a Board Certified Sleep Specialist, a Diplomate of the American Board of Sleep Medicine. I have practiced sleep medicine in the San Diego area for over 30 years. I have an active and very busy sleep medicine practice. I have diagnosed and treated literally thousands of active duty and retired military patients and their family members for sleep apnea and other sleep disorders. I am the Founding Sleep Medicine Specialist and the Founding Clinical Director of the Scripps Mercy Sleep Disorders Center, San Diego. I am an internationally known expert on human sleep and sleep disorders, human performance, sleep logistics, fatigue counter-measures, and effects of sleep loss on performance. I have done sleep research with the Department of Defense and NASA, and with the Navy, the Marines, SEALS, astronauts, and pilots. Previously, I was Department Head and Sleep Specialist of the Behavioral Psychopharmacology Department and Sleep Lab of the Naval Health Research Center, located at Naval Medical Center, San Diego (Balboa). I established the first clinical sleep lab at Balboa. I was the first Board Certified Sleep Medicine Specialist at Balboa. I have my doctorate from Harvard University. My professional career has been focused on sleep, sleep disorders, and human performance.

This individual consulted me for the purpose of evaluating his sleep apnea and his ongoing treatment for sleep apnea. I was asked to provide my expert opinion on whether this individual developed sleep apnea while on active duty. I first evaluated him in a Sleep Apnea Consultation, which is a sleep medicine consultation that includes a discussion of his sleep apnea and use of CPAP, and a review of his sleep and health history.

To form my expert opinion, I reviewed the Veteran's service treatment record (STR) and his medical records since he completed his active service. I reviewed his previous sleep study in great detail. I read and considered the information provided in the written statements submitted in support of the claim. My expert opinion is that this individual's sleep apnea developed during the years of his active duty.

The diagnosis of obstructive sleep apnea was made based on results of a polysomnographic sleep study recorded on 12/16/2011. I have had an opportunity to review the results of the sleep study. There was snoring noted during sleep. Snoring was associated with sleep fragmentation. The overall Apnea plus Hypopnea Index was elevated at 12.1. The Apnea plus Hypopnea Index for Stage REM sleep was greatly elevated at 81.4. The oxygen saturation nadir was 76%. The individual slept very poorly and total sleep time was greatly reduced. Sleep efficiency was greatly reduced at 58%. My diagnosis of this individual's sleep disorder, based on the results of this sleep study, is obstructive sleep apnea, severe in REM sleep and mild in nonREM sleep.

CPAP treatment of the sleep apnea was and continues to be medically necessary. The individual was provided with CPAP and continues to use CPAP. This individual must use CPAP whenever he sleeps to alleviate sleep apnea. It is likely that he will need to use CPAP for the rest of his life.

Sleep apnea is caused by obstruction of the upper airways during sleep. The etiology of sleep apnea is quite complex and may include many different factors. The most important factors are the structure of the individual's airways, the presence of any chronic abnormalities of the upper airways, and the nature of the relaxation of the airways and the neck that occurs during sleep.

Of note, this individual was diagnosed with severe left septal deviation and severe nasal turbinate hypertrophy. For results of ENT evaluation see DOS 9/25/2012 in the civilian medical records. Deviated septum is a anatomical abnormality of the upper airways that causes or exacerbates snoring, upper airway obstruction, and obstructive sleep apnea. He had septoplasty and bilateral submucous resection of the inferior turbinates DOS 11/01/2012. These surgeries did not provide any cure for his sleep apnea. He continues to have sleep apnea. The surgery was performed in an effort to provide some improvement in his ability to use CPAP effectively and to tolerate CPAP better.

Sleep apnea does not come on suddenly but slowly develops and worsens. The development of sleep apnea takes place over the course of an individual's adulthood, beginning with mild and intermittent snoring in a young man and gradually worsening, with more disruptive and persistent snoring, more frequent breathing pauses, more oxygen desaturation episodes, cardiac involvement, and more sleep impairment. It takes years to develop obstructive sleep apnea.

The diagnosis of sleep apnea requires a sleep study. Having a sleep study requires a doctor's order. This Veteran had symptoms of sleep apnea for years before his doctor recognized the symptoms of untreated sleep apnea and ordered a sleep study evaluation for him.

I have been asked to provide to you my expert opinion on when this Veteran developed sleep apnea. The specific characteristics of the obstructive sleep apnea as documented in a sleep study and the specific aspects of an individual's medical and sleep history provide the necessary data for me to determine how long an individual has had sleep apnea and when the sleep apnea had its onset.

Given the specific characteristics of this Veteran's obstructive sleep apnea as documented in his sleep study and given his medical and sleep history, it is my expert opinion that it is more likely than not that this individual developed sleep apnea while he was on active duty.

This individual had no sleep complaints and did not snore prior to entering the military. During his active duty years, the individual was told by others that he had begun to snore disruptively during sleep and he was observed to stop breathing during sleep. He thought snoring was normal. He did not realize that he was having repetitive breathing pauses during sleep. He thought that his poor sleep quality and his fatigue were due to his duty schedule. He had no knowledge of sleep apnea while he was on active duty and he was not asked about his snoring and symptoms of sleep apnea by his military physician.

Disruptive snoring, observed breathing difficulties, poor sleep quality, and daytime sleepiness are all symptoms of obstructive sleep apnea.

The Veteran's symptoms of sleep apnea began while he was on active duty. His symptoms persisted and worsened over the years, until the time that his sleep apnea was properly diagnosed and treated with CPAP.

The Veteran did not have a sleep study while on active duty. Therefore, consideration of other types of evidence is necessary to properly evaluate his claim. In the case of this Veteran, there is other medical evidence of the Veteran's underlying, undiagnosed, and untreated sleep apnea while on active duty. There are specific medical disorders and abnormalities caused by and exacerbated by sleep apnea. The presence of these specific medical disorders and abnormalities constitutes medical evidence of underlying sleep apnea and provides the link between the individual's sleep apnea and his military service.

The individual developed hypertension as a young man. He requires medication. Untreated sleep apnea causes significant biological stress to the cardiovascular system, resulting in hypertension.

This individual developed hyperlipidemia. He requires medication. Untreated sleep apnea causes metabolic changes that result in hyperlipidemia.

This individual is currently being evaluated for diabetes. Having untreated sleep apnea for many years causes metabolic changes that result in his diabetes.

The individual developed GERD. He requires medication. GERD is a symptom of obstructive sleep apnea.

The individual has a long history of headaches that began when he was on active duty. Untreated sleep apnea causes more frequent and more severe headaches.

The individual has a long history of difficulty breathing through the left side of his nose. He has nasal allergies, allergic rhinitis, sinusitis, and nasal congestion that began while he was on active duty. Abnormalities of the upper airways that cause chronic inflammation, swelling, irritation, and infection are important factors in the development and exacerbation of snoring, upper airway obstruction, and sleep apnea.

This individual developed depression and anxiety. Recent clinical research studies have demonstrated that individuals who develop depression and anxiety are more likely than other adults to have underlying, undiagnosed and untreated sleep apnea. The explanation is that untreated sleep apnea results in poor sleep and chronic sleepiness, and interferes with cognition and emotions. The poor sleep is stressful both biologically and psychologically, making it more difficult for the individual to cope effectively with other stressful conditions and events. The poor sleep renders the person less resilient to other stresses and leads to depression and anxiety. The Veteran has service connection for adjustment disorder with depressed mood.

The individual has COPD. He requires medication and an inhaler. COPD and sleep apnea are two distinct breathing disorders. COPD aggravates sleep apnea and complicates the treatment of sleep apnea by use of CPAP. Sleep apnea exacerbates the symptoms of COPD.

This individual has a long history of daytime hypersomnolence due to the underlying, undiagnosed and untreated sleep apnea. The individual continues to have trouble sleeping.

The gold standard for the diagnosis of sleep apnea is a sleep study recorded in an accredited sleep disorders center and interpreted by a Sleep Medicine Specialist, a Diplomate of the American Board of Sleep Medicine. This individual did not have a sleep study while on active duty. He had symptoms of sleep apnea while on active duty. He developed medical disorders and abnormalities that are known to be caused by and exacerbated by untreated obstructive sleep apnea. The development of these medical disorders and abnormalities provides medical evidence of underlying, undiagnosed, and untreated obstructive sleep apnea. It is not unusual for an individual to have symptoms of sleep apnea for years before the primary care doctor refers the individual for a sleep evaluation.

With the current standards of military sleep medicine, this individual surely would have been referred for a sleep study evaluation while he was on active duty.

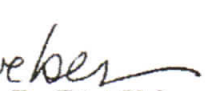
EXPERT OPINION:

I base my opinion on my expert knowledge of sleep apnea and how sleep apnea develops over the course of the individual's lifetime. I base my opinion on my knowledge of how untreated sleep apnea causes and exacerbates other specific medical disorders. I base my opinion on my extensive and expert knowledge of the scientific research and clinical literature relevant to this Veteran's case. I base my opinion on the objective findings of this individual's sleep study evaluation, his medical history, and his sleep history. I base my opinion on my years of experience as an expert in sleep medicine.

In summary, my expert opinion is that this individual's sleep apnea developed while this individual was on active duty. It is much more likely than not that this Veteran's sleep apnea had its onset while he was on active duty.

The Veteran's history and my expert opinion are summarized on the VA Sleep Apnea Disability Benefits Questionnaire which is attached to this letter (Enclosure 1).

Sincerely,



Cheryl L. Spinweber, Ph.D., FAASM
Diplomate, American Board of Sleep Medicine
Fellow of the American Academy of Sleep Medicine
Sleep Medicine Specialist

CLS/VIP.zzz

Enclosure: (1) VA Sleep Apnea Disability Benefits Questionnaire

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OMB Control No. 2900-0778
Respondent Burden: 15 Minutes
Expiration Date: 09/30/2019

Department of Veterans Affairs

SLEEP APNEA DISABILITY BENEFITS QUESTIONNAIRE

IMPORTANT - THE DEPARTMENT OF VETERANS AFFAIRS (VA) ***WILL NOT PAY*** OR ***REIMBURSE*** ANY EXPENSES OR COST INCURRED IN THE PROCESS OF COMPLETING AND/OR SUBMITTING THIS FORM. PLEASE READ THE PRIVACY ACT AND RESPONDENT BURDEN INFORMATION BEFORE COMPLETING FORM.

NAME OF PATIENT/VETERAN *(First, Middle Initial, Last)*

CHARLES E JONES

PATIENT/VETERAN'S SOCIAL SECURITY NUMBER

___ - __ - ____

NOTE TO PHYSICIAN - Your patient is applying to the U.S. Department of Veterans Affairs (VA) for disability benefits. VA will consider the information you provide on this questionnaire as part of their evaluation in processing the veteran's claim. VA reserves the right to confirm the authenticity of ALL DBQs completed by private health care providers.

SECTION I - DIAGNOSIS

1A. DOES THE VETERAN HAVE OR HAS HE OR SHE EVER HAD SLEEP APNEA? [X] YES [ ] NO *(If "Yes," complete Item 1B)*

NOTE: These are the diagnoses determined during this current evaluation of the claimed condition(s) listed below. If there is no diagnosis, if the diagnosis is different from a previous diagnosis for this condition, or if there is a diagnosis of a complication due to the claimed condition, explain your findings and reasons in the Remarks section. Date of diagnosis can be the date of the evaluation if the clinician is making the initial diagnosis, or an approximate date is determined through record review or reported history.

1B. PROVIDE ONLY DIAGNOSES THAT PERTAIN TO SLEEP APNEA AND CHECK DIAGNOSTIC TYPE:

[X] OBSTRUCTIVE	ICD Code: G47.33	Date of diagnosis: 12/16/2011
[ ] CENTRAL	ICD Code:	Date of diagnosis:
[ ] MIXED, COMPONENTS OF BOTH	ICD Code:	Date of diagnosis:
[ ] OTHER SLEEP DISORDER *(specify)*:	ICD Code:	Date of diagnosis:

1C. IF THERE ARE ADDITIONAL DIAGNOSES THAT PERTAIN TO A DIAGNOSIS OF SLEEP APNEA, LIST USING ABOVE FORMAT:

HTN/hyperlipidemia/GERD/headaches/rhinitis/depression/anxiety/COPD/daytime hypersomnolence.

NOTE - The diagnosis of sleep apnea must be confirmed by a sleep study, provide the sleep study results in Section V, Diagnostic Testing. If other respiratory condition is diagnosed, complete VA Form 21-0960L-1, Respiratory Conditions Disability Benefits Questionnaire and/or VA Form 21-0960C-6, Narcolepsy Disability Benefits Questionnaire in lieu of this one.

SECTION II - MEDICAL HISTORY

2A. DESCRIBE THE HISTORY *(including onset and course)* OF THE VETERAN'S SLEEP DISORDER CONDITION *(brief summary)*:

Snoring, observed breathing pauses during sleep, poor sleep quality, daytime fatigue.

2B. IS CONTINUOUS MEDICATION REQUIRED FOR CONTROL OF A SLEEP DISORDER CONDITION?

[ ] YES [X] NO *(If "Yes," list only those medications required for the veteran's sleep disorder condition):*

2C. DOES THE VETERAN REQUIRE THE USE OF A BREATHING ASSISTANCE DEVICE SUCH AS A CONTINUOUS POSITIVE AIRWAY PRESSURE *(CPAP)* MACHINE?

[X] YES [ ] NO

SECTION III - FINDINGS, SIGNS AND SYMPTOMS

3. DOES THE VETERAN CURRENTLY HAVE ANY FINDINGS, SIGNS OR SYMPTOMS ATTRIBUTABLE TO SLEEP APNEA?

[X] YES [ ] NO *(If, "Yes," check all that apply)*

- [X] Persistent daytime hypersomnolence
- [ ] Evidence of chronic respiratory failure with carbon dioxide retention
- [ ] Cor pulmonale
- [ ] Requires tracheostomy
- [X] Other, describe: Trouble falling asleep and staying asleep.

SECTION IV - OTHER PERTINENT PHYSICAL FINDINGS, COMPLICATIONS, CONDITIONS, SIGNS AND/OR SYMPTOMS

4A. DOES THE VETERAN HAVE ANY SCARS *(surgical or otherwise)* RELATED TO ANY CONDITIONS OR TO THE TREATMENT OF ANY CONDITIONS LISTED IN THE DIAGNOSIS SECTION?

[ ] YES [ ] NO *(If "Yes," are any of the scars painful or unstable; have a total area equal to 39 square cm (6 square inches; or are located on the head, face or neck?)*

[ ] YES [X] NO

(If "Yes," ALSO complete VA Form 21-0960F-1, Scars/Disfigurement Disability Benefits Questionnaire.)
(If "No," provide location and measurements of scar in centimeters.)

Location: _____

Measurements: Length _____ cm X width _____ cm.

NOTE: An "unstable scar" is one where, for any reason, there is frequent loss of covering of the skin over the scar. If there are multiple scars, enter additional locations and measurements in the Remarks section below. It is not necessary to also complete a Scars DBQ.

4B. DOES THE VETERAN HAVE ANY OTHER PERTINENT PHYSICAL FINDINGS, COMPLICATIONS, CONDITIONS, SIGNS AND/OR SYMPTOMS RELATED TO ANY CONDITIONS LISTED IN THE DIAGNOSIS SECTION?

[X] YES [ ] NO *(If, "Yes," describe - brief summary):*

Deviated septum/COPD/HTN/hyperlipidemia/GERD/headaches/rhinitis/depression&anxiety/daytime hypersomnolence.

PATIENT/VETERAN'S SOCIAL SECURITY NO. [redacted]

SECTION V - DIAGNOSTIC TESTING

NOTE - If diagnostic test results are in the medical record and reflect the veteran's current sleep apnea condition, repeat testing is not required.

5A. HAS A SLEEP STUDY BEEN PERFORMED?

[X] YES [ ] NO

(If, "Yes," does the veteran have documented sleep disorder breathing?)

[X] YES [ ] NO

Date of sleep study: 12/16/2011

Name of facility where sleep study performed, if known: Thomas Jefferson Hospital

Results: Obstructive sleep apnea.

5B. ARE THERE ANY OTHER SIGNIFICANT DIAGNOSTIC TEST FINDINGS AND/OR RESULTS?

[ ] YES [X] NO *(If, "Yes," provide type of test or procedure, date and results (brief summary)):*

SECTION VI - FUNCTIONAL IMPACT

6. DOES THE VETERAN'S SLEEP APNEA IMPACT HIS OR HER ABILITY TO WORK?

[X] YES [ ] NO *(If "Yes," describe impact of the veteran's sleep apnea, providing one or more examples):*

Sleep apnea causes poor sleep, daytime sleepiness, slowed reaction time, memory impairment, and impaired vigilance. Untreated sleep apnea causes or exacerbates chronic health problems. The Veteran must use CPAP whenever he sleeps to alleviate sleep apnea, improve sleep quality, and maintain normal daytime functioning. The Veteran must take CPAP with him when he travels and must use it when he naps and when he sleeps away from home.

SECTION VII - REMARKS

7. REMARKS *(If any)*

It is my expert opinion that it is much more likely than not that this Veteran's sleep apnea had its onset during the time that he was on active duty.

For more information, please see my expert opinion letter.

SECTION VIII - PHYSICIAN'S CERTIFICATION AND SIGNATURE

CERTIFICATION - To the best of my knowledge, the information contained herein is accurate, complete and current.

8A. PHYSICIAN'S SIGNATURE	8B. PHYSICIAN'S PRINTED NAME	8C. DATE SIGNED
C R Spinweber	Cheryl L. Spinweber, Ph.D., FAASM	05/01/2018

8D. PHYSICIAN'S PHONE AND FAX NUMBER	8E. NATIONAL PROVIDER IDENTIFIER (NPI) NUMBER	8F. PHYSICIAN'S ADDRESS
858-598-4205	1144348533	P. O. Box 420187 San Diego, CA 92142

NOTE - VA may obtain additional medical information, including additional examinations if necessary to complete VA's review of the veteran's application.

IMPORTANT - Physician please fax the completed form to _____

(VA Regional Office FAX No.)

NOTE - A list of VA Regional Office FAX Numbers can be found at **www.benefits.va.gov/disabilityexams** or obtained by calling 1-800-827-1000.

PRIVACY ACT NOTICE: VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is voluntary. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to determine entitlement to benefits (38 U.S.C. 501). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete a form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at **www.reginfo.gov/public/do/PRAMain**. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.