LAY WITNESS STATEMENTS AND HOW TO USE THEM TO YOUR ADVANTAGE

Lay witness statements are statements or declarations made by individuals who are not medical experts but have knowledge of facts relevant to your claim. These individuals can help strengthen your claim by providing information relating to:

1. The injury that occurred during service (e.g., a “buddy” statement);
2. Why there may be gaps in your file;
3. Personal observations of the symptoms of your disability; and/or

First, especially for combat-related injuries, a lay witness statement from a fellow military member can establish the in-service injury. For non-combat related injuries, a lay witness statement can help establish an in-service injury by corroborating with other evidence (such as service treatment records).

Second, lay witness statements have value because they can help explain gaps in your records. For example, if the service treatment record establishing the in-service injury doesn’t contain necessary detail, a buddy statement from someone who personally witnessed the injury can help supplement the evidence.

Third, a lay witness statement can show, based on personal observation, the symptoms of your disability. For example, a lay witness may be able to attest that she sees you always walk with a cane, limp, move slowly, and also note that she has observed you take medication.

Fourth, lay witness statements can help explain “bad” facts. For example, if you did not receive medical care after returning home from the service, a family member’s affidavit can discuss a financial reason for not doing so, and describe in detail their personal observations of your disability at that time.

In order for these statements to serve these purposes, however, they must have two elements: CREDIBILITY and COMPETENCE. What do these mean?
CREDIBILITY means that the person making the statement is believable. A statement will not be credible if there is reason to believe that the person making it is not trustworthy or has the tendency to lie.

COMPETENCE means that the person’s words have value. For example, if a lay witness (meaning they are not a doctor) says “the veteran has diabetes,” this would not be competent evidence because a lay witness cannot diagnose a medical condition. However, if a lay witness explains 1) how he was able to observe the veteran (ie, “we have worked together every day for the last ten years); and 2) describes the symptoms of a disability which are observable (such as limping, walking slowly, wincing in pain), the VA should consider this evidence.

How to Make Lay Witness Evidence Work for You:

- Get it notarized – The VA does not say that this is required, but it adds to CREDIBILITY because the statement is made in front of a notary.

- Go into detail – When you find someone to give a lay witness statement, ask them to go into as much detail as possible as it relates to the injury that occurred and/or their personal observations of symptoms of your current disability.

- Show how the lay witness was in a position to personally observe the fact you are trying to prove through the lay witness (Example: “We worked in the same office for twenty years”).

- Use phrases that show personal observation (“I personally observed Mr. X limping every time he visited me. He would ask me for assistance in going up and down stairs.”)

Please remember that in the event a medical examination is necessary to show the link between the in-service injury and the current disability, a lay witness affidavit may not be enough. However, lay witness statements can be powerful! Make sure you use them to your advantage.