

*The Code of Federal Regulations requires that to be competent, a medical opinion must be “provided by a person who is qualified through education, training or experience” to offer one. 38 C.F.R. § 3.159(a)(1). Competency requires some nexus between qualification and opinion. Dep’t. of Veterans Affairs Proposed Rules, 66 FR 17834-01, 17835 (Apr. 4, 2001) (citing *Espiritu v. Derwinski*, 2 Vet. App. 492 (1992) (stating that “opinions of witnesses skilled in that particular science, art or trade to which the question relates are admissible in evidence”), overruled on other grounds by *King v. Shinseki*, 700 F.3d 1339, 1345 (Fed. Cir. 2012)).*

*However, the VA Benefits from a presumption that it has properly chosen a person who is qualified to provide a medical opinion in a particular case. *Sickels v. Shinseki*, 643 F.3d 1362, 1366 (Fed. Cir. 2011). Even though the law presumes the VA has selected a qualified person, the presumption is rebuttable. See *Bastien v. Shinseki*, 599 F.3d 1301, 1307 (Fed. Cir. 2010) (explaining that a veteran challenging the qualifications of a VA-selected physician must set forth specific reasons why the veteran believes the expert is not qualified to give a competent opinion).*

Given that one part of the presumption of regularity is that the person selected by the VA is qualified by training, education, or experience in the particular field, the presumption can be overcome by showing the lack of those presumed qualifications.

I hereby request that a copy of the C&P Doc’s resume, CV, list of publications, list of specialties, etc., such that his/her experience and qualifications may be examined, reviewed, questioned, and/or challenged. I specifically request that any and all information stored in VetPort – or any other system of records – that pertains to the Examiners’ credentialing as a medical professional since the Examiner’s date of first employment and/or association with the VA – be included in my C-File and specifically examined by the BVA and CAVC to determine the adequacy of the Examiner’s so-called expertise. 38 U.S.C. 7402; 38 CFR Part 46; VHA Handbook 1100.19; VA Handbook 5005, Part II, Chapter 3; VHA DIRECTIVE 2012-030.

Furthermore, I object to the following aspects of the VA Examiner’s opinion:

a) The lack of support in the opinion with scientific, technical or other specialized knowledge, and how it relates to the conclusion being sought
b) The lack of facts, tests, or data on which to base the opinion.

c) The lack of evidence demonstrating the Examiner’s conclusion is the product of reliable principles and methods

d) The Examiner’s failure to reliably applied medical, scientific, and or forensic principles and methods to the facts of the case.