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drugs.) Where drugs are used for therapeutic purposes or where use of drugs or addiction thereto, results from a service-connected disability, it will not be considered of misconduct origin.

(Authority: 38 U.S.C. 105, 1110, 1121, 1131, 1301, and 1521(a))

(d) *Line of duty; abuse of alcohol or drugs.* An injury or disease incurred during active military, naval, or air service shall not be deemed to have been incurred in line of duty if such injury or disease was a result of the abuse of alcohol or drugs by the person on whose service benefits are claimed. For the purpose of this paragraph, alcohol abuse means the use of alcoholic beverages over time, or such excessive use at any one time, sufficient to cause disability to or death of the user; drug abuse means the use of illegal drugs (including prescription drugs that are illegally or illicitly obtained), the intentional use of prescription or nonprescription drugs for a purpose other than the medically intended use, or the use of substances other than alcohol to enjoy their intoxicating effects.

(Authority: 38 U.S.C. 105(a))

CROSS-REFERENCES: In line of duty. See §3.1(m). Willful misconduct. See §3.1(n). Extended period of eligibility. See §§21.1043 and 21.7051. Periods of entitlement. See §21.5041.

[26 FR 1579, Feb. 24, 1961, as amended at 37 FR 24662, Nov. 18, 1972; 54 FR 31951, Aug. 3, 1989; 55 FR 13530, Apr. 11, 1990; 60 FR 27408–27409, May 24, 1995]

§3.302 Service connection for mental unsoundness in suicide.

(a) *General.* (1) In order for suicide to constitute willful misconduct, the act of self-destruction must be intentional.

(2) A person of unsound mind is incapable of forming an intent (mens rea, or guilty mind, which is an essential element of crime or willful misconduct).

(3) It is a constant requirement for favorable action that the precipitating mental unsoundness be service connected.

(b) *Evidence of mental condition.* (1) Whether a person, at the time of suicide, was so unsound mentally that he or she did not realize the consequence of such an act, or was unable to resist such impulse is a question to be determined in each individual case, based on all available lay and medical evidence pertaining to his or her mental condition at the time of suicide.

(2) The act of suicide or a bona fide attempt is considered to be evidence of mental unsoundness. Therefore, where no reasonable adequate motive for suicide is shown by the evidence, the act will be considered to have resulted from mental unsoundness.

(3) A reasonable adequate motive for suicide may be established by affirmative evidence showing circumstances which could lead a rational person to self-destruction.

(c) *Evaluation of evidence.* (1) Affirmative evidence is necessary to justify reversal of service department findings of mental unsoundness where Department of Veterans Affairs criteria do not otherwise warrant contrary findings.

(2) In all instances any reasonable doubt should be resolved favorably to support a finding of service connection (see §3.102).

CROSS REFERENCE: Cause of death. See §3.312.

[28 FR 183, Jan. 8, 1963, as amended at 54 FR 31951, Aug. 3, 1989; 55 FR 13530, Apr. 11, 1990]

RATINGS AND EVALUATIONS; SERVICE CONNECTION

§3.303 Principles relating to service connection.

(a) *General.* Service connection connotes many factors but basically it means that the facts, shown by evidence, establish that a particular injury or disease resulting in disability was incurred coincident with service in the Armed Forces, or if preexisting such service, was aggravated therein. This may be accomplished by affirmatively showing inception or aggravation during service or through the application of statutory presumptions. Each disabling condition shown by a veteran's service records, or for which he seeks a service connection must be considered on the basis of the places, types and circumstances of his service as shown by service records, the official history of each organization in which he served, his medical records and all pertinent medical and lay evidence. Determinations as to service connection will be based on review of