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for Book B of your set of
Federal Regulations**

Title 38, Part 3

Adjudication

Veterans Benefits Administration

Supplement No. 100

Covering period of *Federal Register* issues
through March 1, 2012

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GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

Supplemental Materials for *Book B*

Code of Federal Regulations

Title 38, Part 3

Adjudication

Veterans Benefits Administration

Supplement No. 100

5 March 2012

Covering the period of Federal Register issues
through March 1, 2012

When **Book B** was originally prepared, it was current through final regulations published in the *Federal Register* of 9 August 1991. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which begins on page B-5 of Book B, *Adjudication*.

**To ensure accuracy and timeliness of your materials,
it is important that you follow these simple procedures:**

1. Always file your supplemental materials immediately upon receipt.
2. Before filing, always check the Supplement Filing Record (page B-5) to be sure that all prior supplements have been filed. If you are missing any supplements, contact the Veterans Benefits Administration at the address listed on page B-4.
3. After filing, enter the relevant information on the Supplement Filing Record sheet (page B-5)—the date filed, name/initials of filer, and date through which the *Federal Register* is covered.
4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
5. Always retain the filing instructions (simply insert them at the back of the book) as a backup record of filing and for reference in case of a filing error.
6. Be certain that you *permanently discard* any pages indicated for removal in the filing instructions in order to avoid confusion later.

To execute the filing instructions, simply remove *and throw away* the pages listed under *Remove These Old Pages*, and replace them in each case with the corresponding pages from this supplement listed under *Add These New Pages*. Occasionally new pages will be added without removal of any old material (reflecting new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.

FILING INSTRUCTIONS

Book B, Supplement No. 100

March 5, 2012

*Remove these
old pages*

*Add these
new pages*

*Section(s)
Affected*

**Do not file this supplement until you confirm that
all prior supplements have been filed**

3.381-1 to 3.381-2

3.381-1 to 3.381-2

§3.381

**Be sure to complete the
Supplement Filing Record (page B-5)
when you have finished filing this material.**

HIGHLIGHTS

Book B, Supplement No. 100 March 5, 2012

Note: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book B (*Adjudication*) was originally supplemented four times a year, in February, May, August, and November. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 30 January 2012, the VA published a final rule, effective 29 February 2012, to amend its adjudication regulations regarding service connection of dental conditions for treatment purposes. Change:

- In §3.381, redesignated paragraphs (a) through (f) as (b) through (h), added new paragraph (a), and revised new paragraphs (b) and (c).



§3.381 Service connection of dental conditions for treatment purposes.

(a) The Veterans Benefits Administration (VBA) will adjudicate a claim for service connection of a dental condition for treatment purposes after the Veterans Health Administration determines a veteran meets the basic eligibility requirements of §17.161 of this chapter and requests VBA make a determination on questions that include, but are not limited to, any of the following:

- (1) Former Prisoner of War status;
- (2) Whether the veteran has a compensable or noncompensable service-connected dental condition or disability;
- (3) Whether the dental condition or disability is a result of combat wounds;
- (4) Whether the dental condition or disability is a result of service trauma; or
- (5) Whether the veteran is totally disabled due to a service-connected disability.

(b) Treatable carious teeth, replaceable missing teeth, dental or alveolar abscesses, and periodontal disease are not compensable disabilities, but may nevertheless be service connected solely for the purpose of establishing eligibility for outpatient dental treatment as provided for in §17.161 of this chapter. These conditions and other dental conditions or disabilities that are noncompensably rated under §4.150 of this chapter may be service connected for purposes of Class II or Class II (a) dental treatment under §17.161 of this chapter.

(c) The rating activity will consider each defective or missing tooth and each disease of the teeth and periodontal tissues separately to determine whether the condition was incurred or aggravated in line of duty during active service.

(d) In determining service connection, the condition of teeth and periodontal tissues at the time of entry into active duty will be considered. Treatment during service, including filling or extraction of a tooth, or placement of a prosthesis, will not be considered evidence of aggravation of a condition that was noted at entry, unless additional pathology developed after 180 days or more of active service.

(e) The following principles apply to dental conditions noted at entry and treated during service:

- (1) Teeth noted as normal at entry will be service-connected if they were filled or extracted after 180 days or more of active service.
- (2) Teeth noted as filled at entry will be service-connected if they were extracted, or if the existing filling was replaced, after 180 days or more of active service.

- (3) Teeth noted as carious but restorable at entry will not be service-connected on the basis that they were filled during service. However, new caries that developed 180 days or more after such a tooth was filled will be service-connected.
 - (4) Teeth noted as carious but restorable at entry, whether or not filled, will be service-connected if extraction was required after 180 days or more of active service.
 - (5) Teeth noted at entry as non-restorable will not be service-connected, regardless of treatment during service.
 - (6) Teeth noted as missing at entry will not be service connected, regardless of treatment during service.
- (f) The following will not be considered service-connected for treatment purposes:
- (1) Calculus;
 - (2) Acute periodontal disease;
 - (3) Third molars, unless disease or pathology of the tooth developed after 180 days or more of active service, or was due to combat or in-service trauma; and
 - (4) Impacted or malposed teeth, and other developmental defects, unless disease or pathology of these teeth developed after 180 days or more of active service.

(g) Teeth extracted because of chronic periodontal disease will be service-connected only if they were extracted after 180 days or more of active service. (Authority: 38 U.S.C. 1712)

[26 FR 1592, Feb. 24, 1961, as amended at 64 FR 30393, June 8, 1999; 77 FR 4470, Jan. 30, 2012]

Supplement *Highlights* references: 38(2), 100(1).