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The Quest for Title 38 by VA Psychologists

Mary Beth Shea, Ph.D.
Past President, AVAPL

March 22, 2019

T38

Today's topics:

- What
- Why
- How

What is Title 38?

And how does it relate to VA Psychologists?

- VA Hiring authorities
 - Title 5: traditional civil service employees
 - Title 38: Physicians, dentists, podiatrists, chiropractors, optometrists, registered nurses, physician assistants, and expanded-function dental auxiliaries
 - Hybrid Title 38: psychologists, speech pathologists, social workers, respiratory therapists, dental hygienists, licensed practical nurses, medical technologists, and others

Wait...What?

A little history...

- Public Law 79-293 established what is now known as VHA
- Primary purpose was to ensure adequate and complete medical service for Veterans.
- Also provided for employment of physicians, dentists, and nurses within the department *without regard to civil service laws, rules, and regulations.*
- Additional laws expanded T38 to include PA's dental auxiliaries, podiatrists, optometrists, facility directors, licensed physical therapists, chiropractors, pharmacists, and OT's.

Where was psychology in this?

- Public Law 98-160 (1983) provided for SOME psychologists to be included in Title 38.
- Rejected by Secretary Walters

Creation of the Hybrid

- Public Law 108-170 (2003) converted 21 Title 5 positions to Hybrid T38, including psychologists.
- Psychologists supported this move primarily because T38 (at that time) restricted outside employment.

Should we leave well enough alone?

- Cumbersome hiring (varies)
- Recruitment
- Retention

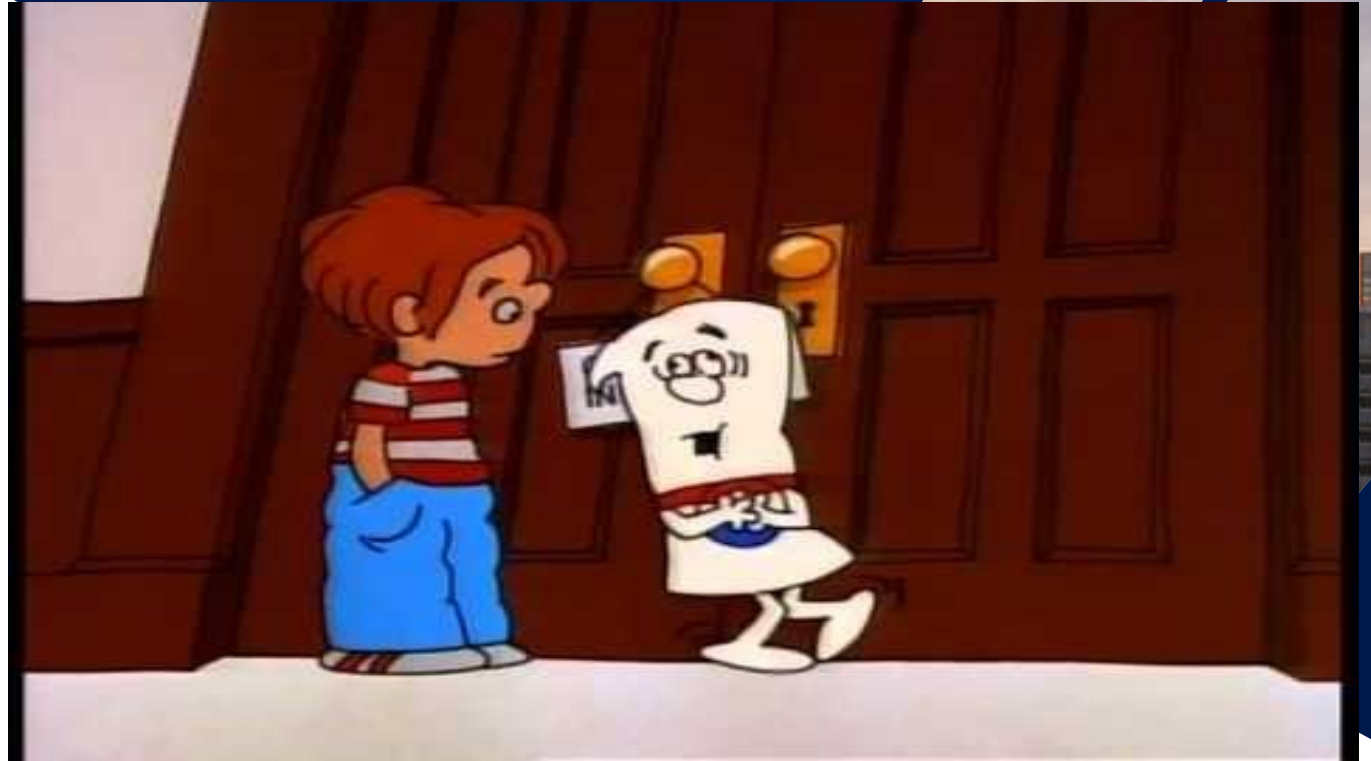


Why now?

- Huge focus on Veterans' mental health care by Congress and the general public.
- Increasing need due to rising numbers of Vietnam era and peacetime Vets enrolling AND Veterans of a 18-year war.
- Executive Order for Transitioning Service Members anticipates 32,000 new Veterans to seek MH treatment in the year following discharge

How would T38 happen?

- It takes an act of Congress.
 - Bill introduced
 - Committee action
 - Floor action
 - Vote
 - Conference Committees
 - Presidential action



So what would change? Part 1

	TITLE 38	HYBRID 38	
Hiring Process	CV and license to the hiring official	USA Jobs, Vet preference, OPM sets basic quals, KSAs, HR sorts candidates and issues certs*	+
Probationary Periods	2 years	1 year **	-
Pay	Differs by profession and locality. For physicians and dentists, pay = base pay + market pay + specialty pay + performance pay. For RN's = locality pay system	General Schedule pay system + locality pay	+
Premium Pay	<u>Physicians and dentists</u> get no additional premium pay (incl in performance pay). <u>RN's</u> Overtime = 1 ½ x basic hourly rate Tour differential (evenings)= 10% Weekend pay = 25% Holiday pay = 2 x basic pay On-call = 10% of overtime pay	Overtime = 1 ½ x basic hourly rate <i>not to exceed</i> one and a half of the applicable GS 10 step 1 rate or the employee's basic hourly rate. Tour differential (evenings)= 10% Weekend pay = 25% Holiday pay = 2 x basic pay	+

So what would change? Part 2

	TITLE 38	HYBRID 38	
Periodic Step Increases	Differs by profession. For most, there is an automatic within-grade increase every 2 years.	Within-grade increases are every year for steps 2-4, every 2 years for steps 5-7, and every 3 years for steps 9-10.	+
Hours of Duty	Differs by profession. For physicians and dentists, normal tour is 40 hours and 5 days/week. May have outside off-tour employment, so long as the needs of VA take priority.	Normal 40 hour workweek, M – F. May have outside off-tour employment, so long as the needs of VA take priority.	0
Annual Leave	Physicians and dentists earn 30 days of leave per year. Leave is charged in whole day increments. Maximum accumulation per year is 120 days. Nurses, PAs and EFDAs earn 8 hours a pay period (26 days per year). Maximum accumulation is 685 hours per year.	Leave is earned based upon the years of service: 1-3 years: 4 hours per pay period 3-14 years: 6 hours per pay period 15+ years: 8 hours per pay period Leave is charged in quarter-hours Maximum accumulation is 240 hours per year.	+

So what would change? Part 3

	TITLE 38	HYBRID 38	
Performance Review	Proficiency Reports annually on the anniversary of date of employment.	A formal written performance rating once a year	○
Retirement	For FERS, physicians and dentists who complete 15 years of creditable service may use Physicians/Dentists <i>Special Pay</i> as basic pay in determining the “high-3.”	In FERS, “high-3” average pay is the highest average basic pay earned during any 3 consecutive years of service. Basic pay does not include payments for overtime, bonuses, etc.	+
Disciplinary Action/Employee Rights	Generally can NOT appeal personnel actions to the Merit Systems Protection Board (MSPB). Title 38 employees DO have the right to union representation. However, collective bargaining and grievance procedures may NOT cover: Professional conduct or competence Peer review Compensation	MSPB protection for disciplinary action when VA is alleged to have committed a prohibited personnel practice (details follow)	-

MSPB Protections

- Protects federal employees from
 - partisan political practices
 - other prohibited personnel practices
 - ensures adequate protection for federal employees against abuses by agency management
- In 2014, 15,925 appeals were filed
 - MSPB reduced or reversed the agency's initial decision in 190 cases (1.1%)
- 2017 VA Accountability Act “improves” the authority to remove, demote, or suspend based on performance or misconduct.
 - Allows grievance rights and whistleblower protection
 - Supersedes collective bargaining agreements



T38

Easier hiring practices
Potentially better pay
Potentially better leave

Loss of some protections,
especially in matters of
professional conduct or
competence, peer review,
and compensation

What's Next?

- AVAPL MidWinter meetings are next week. We will continue to advocate for Title 38 and updating the pay plan for psychologists.



T38

Thank You.



Mary Beth Shea, PhD



407-631-2349



Past-President1@avapl.org or mary.shea@va.gov



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