

Dissolution of Title 38 Professional Standards Boards and Related Policy Revisions

Frequently Asked Questions

Professional Standards Board (PSB) Dissolution

Why have Title 38 PSBs been eliminated?

PSBs are being eliminated for appointment, promotion, and advancement to:

- Return time spent on PSBs back to patient care.
- Align with private sector practices.
- Decrease time to hire.
- Decrease candidate's time in the application process and improve overall candidate experience.
- Enhance objectivity and timeliness of promotion and advancement process.
- Create consistency across disciplines for appointment and promotion/advancement processes under Title 38/Hybrid Title 38.

What occupations are being impacted by elimination of Title 38 PSBs?

Physicians, Dentists, Podiatrists, Registered Nurses (RNs), Advanced Practice Nurses (Nurse Practitioners, Clinical Nurse Specialists, Certified Nurse Midwives, Certified Nurse Anesthetists), Physician Assistants, Optometrists, Chiropractor, and Expanded Function Dental Auxiliary.

How should PSBs handle packages that may be incomplete when the new policies go into effect?

Attachment B of the Under Secretary for Health Memorandum dated January 2024 provides guidance on the processing of incomplete Professional Standards Board packages on January 29, 2024, when the new policies are effective. Additionally, training will be deployed to help local, Veterans Integrated Service Networks, regional, and national PSBs handle various scenarios that may occur once the new policies go into effect. In the interim, PSBs should work to minimize outstanding items in the queue.

Who will review appointments and promotion/advancements for Title 38 occupations?

The hiring manager in collaboration with servicing Human Resources (HR) will review appointments and promotions/advancements for qualification and eligibility. Appointments where the entry step is being recommended above step 1, template found in 5007 must be completed and approved. In instances where the hiring manager is not a subject matter expert for the position being hired, the hiring manager will consult a subject matter expert to review appointments and promotions for qualification and eligibility.

Nurse Qualification Standard

Why are the Nurse Qualification Standards being updated at this time?

The Office of Nursing Service identified the need to modify the standards to align with existing processes and business practices with the overarching goal of modernizing our systems and improving satisfaction based on feedback from key stakeholders.

- Align with updated foundational sources American Nurses Association, American Academy of Nurse Practitioners, American College of Healthcare Executives, and American Organization for Nursing Leadership
- Align with changes to professional nursing practice
- Improve objectivity
- Increase employee satisfaction and empower nurses to own professional practice
- Decrease time to hire

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How will RNs and APNs know what information to give the supervisor for annual self-assessment for promotions?

Self-assessments for promotion address the qualification standards at your current grade; if the scope and complexity of your practice has increased, you may also describe how you exceed the expectations of the current grade. Promotion for RNs up to grade II, and for Advanced Practice Nurses (APNs) up to grade III, occurs by natural progression based on experience and education, similar to the full performance level of title 5 or hybrid title 38 occupations. If you are an RN seeking promotion from Nurse II to Nurse III, in addition to meeting the education and experience requirements, you will need to address how you are meeting the dimensions of practice at the Nurse III grade.

Can the changes to the RN/APN Qualification Standards adversely affect my current grade?

The changes to the RN/APN Qualification Standards will not adversely impact your current grade and/or level. You will be automatically grandfathered into your current grade and/or level. If you have a break in your service, you must meet the requirements of the new qualification standards to be reappointed at the same or higher grade.

How will the nurse promotion process change with the Nurse Qualification Standards modernization?

Anniversary date of grade promotion reviews will remain in effect for promotion considerations up to Nurse III. RNs and APNs at all grades/levels must meet education and experience requirements to be promoted. RN Nurse I (all levels) and Nurse II are not required to meet each individual dimension to qualify, but should be able to demonstrate, develop, or acquire those criteria not met upon promotion for the grade within 90 days. RNs seeking promotion to Nurse III, in addition to education and experience requirements, must meet all dimensions of practice at the Nurse III grade. APNs in the assignment of Nurse Practitioner, Clinical Nurse Specialist or Certified Nurse Midwife) for promotion consideration on their anniversary date of grades up to Nurse III are not required to meet each individual dimension to qualify, but should be able to demonstrate, develop, or acquire those not met upon promotion for the grade.

If I am not eligible for a promotion, do I need to submit any information to my supervisor for the annual review?

Yes, you are still strongly encouraged to submit your self-assessment as it ensures your performance is accurately documented. Your accomplishments may also positively impact your rating and consideration for performance awards/advancements

Why are there Advance Practice Nurse specific Qualification Standards?

The Advanced Practice Nurse Qualification Standards were developed to capture the provider-level, independent practice, and leadership of the APN. This includes the Certified Nurse Practitioner, Clinical Nurse Specialist, and Certified Nurse Midwife. These standards were authored with expertise from the National Advanced Practice Nurse Council and APN subject matter experts from the field. In addition, the Certified Nurse Anesthetist Qualification Standard has been updated.

Will my functional statement change with the updated Nurse qualification standard?

Yes, your functional statement will change to align with the updated Nurse Qualification Standards. Your supervisor will discuss the changes and issue you an updated functional statement.

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How can I learn more about the changes?

Training sessions will be completed for leadership, supervisors, HR, and employees between January 2024 - March 2024.

Why did the education requirement for Nurse II change?

The education requirement for Nurse II changed to ensure a standard expectation for a Bachelor's degree in nursing. Evidence-based practice highlights the improvement in patient outcomes associated with attainment of a Bachelor of Science in Nursing or higher. Education specific to the occupation of nursing ensures the RN is best prepared for complex, patient care in all settings.

For nursing, is there a reconsideration process if I am not promoted?

Yes, there is a reconsideration process. The employee may, within 30 days of being notified of the decision, submit a written request through the immediate supervisor to the second level supervisor for reconsideration. The employee's written request for reconsideration must indicate when the informal discussion was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper. The Medical Center Director, Network Director, or appropriate higher-level designee (whichever is applicable) may extend the 30-day period at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.

Second level supervisors are to review the employee's request within 30 days and determine whether to promote the employee. If the second level supervisor determines that a promotion is not warranted, that supervisor will provide the reasons for this decision to the employee in writing.

If the employee is not satisfied with the explanation of the determination to not promote, the employee can request within 30 days to have the determination reviewed and recommendation made by the next higher-level manager. The employee's request for reconsideration and the supervisor's explanation will be forwarded to the next higher-level manager within 30 days.

The next higher-level manager will make a recommendation within 30 days and submit through the servicing HR Office to the Medical Center Director, Network Director, or appropriate higher-level designee (whichever is applicable), who will make a final decision within 30 days.

If the promotion is approved, the employee is to be promoted on the first day of the first pay period after the anniversary date of grade on which the promotion reconsideration was based. If the promotion is denied, the employee will be provided with a copy of the decision.

TITLE 38 AWARDS

Will I still be eligible for a Special Award for Achievement (SAA) or Special Advancement for Performance (SAP)?

Yes, the changes to the Nurse Qualification Standards do not impact the criteria for SAAs or SAPs. The process for approval will be through your supervisory chain of command and HR instead of the Nurse PSB.

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Will the elimination of the PSB review mean that my supervisor has the final say in my award amounts or number of steps I can receive with a SAP.

No. Award amounts and the number of steps with SAPs must still comply with limitations in policy, and, subject to limitations, the approving official has the final say on the amount of any awards or the number of steps granted with an award.

I am a current PSB board member. How does this impact the review of awards before the Board at the time of VA Handbook 5017's implementation? Will the elimination of PSB's impact whether awards are approved?

Award packages with the PSB at the time of policy implementation which are not finalized with approving official signature and effective on or before January 28, 2024, will be transferred to HR. As the basis for awards have not changed, it is unlikely to impact any approvals or disapprovals.

What will happen to award packages currently with the PSB at the time the changes to 5017 are implemented?

Packages which are not finalized with approving official signature and effective on or before January 28, 2024, will be returned to HR.

Will HR be taking on the functions of the PSB, such as recommending award amounts?

No. HR's function will be limited to technical review of awards; however, in instances where an award amount exceeds what is allowed in policy, HR will inform the supervisor and/or nominating official of the discrepancy and return the package to the appropriate level for correction.

TITLE 38 SEPARATIONS FOR PRE-EMPLOYMENT SUITABILITY REASONS

With the changes to the Title 38 pre-employment suitability policy, am I losing due process rights for proposed separations related to matters of pre-employment suitability?

No. Employees will still have due process rights (i.e. the right to have representation, right to review evidence used to support the proposal and decision, right to make a reply to the proposed separation, and a decision on the proposed separation from a deciding official based on the totality of the evidence of record and reply), but with the broader elimination of PSB's, employees are not retaining an option to submit a reply to a body other than the deciding official.

For Title 38 pre-employment suitability separations, is there any option for the deciding official to request an ad hoc board review or recommendations from a prior board subject matter expert?

No. As the PSB's no longer exist, there is no mechanism for board or subject matter expert review or recommendations for pre-employment suitability matters, without violating the privacy and procedural rights of the subject employee.

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For Title 38 pre-employment suitability cases, will HR still service as a technical advisor for the case?

Yes, HR remains the technical advisors for pre-employment suitability cases.

What occurs if an employee has already received a proposed separation for matters of pre-employment suitability at the time the new policy is published?

The board review and recommendation processes cease to exist as of the date the policy is published. Where the deciding official has already signed the board action and issued a written decision with an effective date on or before January 28, 2024, the case will proceed for processing. If these criteria are not met, the case must be returned to HR and the proposal must be rescinded and reissued with the new reply rights and follow the new process.

TITLE 38 PROBATIONARY TERMINATIONS

Are the Summary Review Board (SRB) procedures consistent across all Title 38 occupations?

Within policy the SRB procedures are the same for all Title 38 occupations; however, in practice union agreements may create different SRB procedures for Title 38 employees in different unions or between bargaining unit and non-bargaining unit employees.

If I complete my 2-year probationary/trial period, and later take a position as a Title 38 supervisor, will I be subject to SRB procedures during the supervisory probationary period?

No. Title 38 employees do not serve a separate supervisory probationary period. SRB procedures are not applicable to employees who have completed their 2-year probationary period with U.S. Department of Veterans Affairs.

Are employees more likely to be terminated under the new SRB procedures?

No. Procedurally, the criteria for initiation of an SRB have remained the same, board review still occurs, and the same due process rights still exist for probationary employees who are covered by the SRB process.

For Title 38 probationary period terminations, the policy states that terminations should be effected within 7 business days of the approving official's decision, but the American Federation of Government Employees (AFGE) contract says employees are normally given 15 calendar days' notice prior to separation. Which applies?

The contractual citation in this case uses the word "normally" so deviating from the 15-calendar day timeframe should be for an articulated, valid business reason (e.g., the subject employee's probationary period would end before the 15-calendar day notice period).

How are unfinished SRB proceedings initiated prior to implementation of the new policy handled?

Any Title 38 probationary termination proceedings which are incomplete as of January 28, 2024, should be returned to HR for processing under the new procedures.

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Will I have more responsibilities as a supervisor under the new SRB procedures?

Immediate supervisors will find their roles largely unchanged, but authorizing officials may find the procedures for initiating an SRB have changed. Authorizing officials will need to determine the appropriate composition of ad hoc boards based on the occupation of the subject employee and the organizational level at which the board is taking place. HR will collaborate on this process.

Are supervisors subject to the new SRB procedures?

Supervisors who are serving in their initial probationary period as a Title 38 employee are subject to the SRB procedures; however, Title 38 has no separate supervisory probationary period, and once an employee completes their initial probationary period the SRB procedures do not apply.

If a Probationary Review Board (PRB) recommends my employee be referred for an SRB, must I initiate a request for an SRB?

While this is a very unlikely scenario, if the PRB establishes sufficient cause for the SRB referral then a request for an SRB should be made. If there is evidence which refutes the cause stated by the PRB, further communication between the supervisor and PRB should occur to determine if an SRB is still warranted. You should consult with your servicing HR office in this scenario.

TITLE 38 PROFICIENCY

With the changes to the new rating cycle, will employees no longer be rated on their anniversary date-of-grade?

There is a change in the rating cycle for all Title 38 proficiencies. The proficiency rating cycle for all Title 38 employees will now be based on a fiscal year, e.g., October 1 through September 30 the following year.

What is the effective date of the change in proficiency rating cycle?

January 29, 2024, which coincides with the date the updated policy was published.

Will employee receive a special rating or a final close out rating for closing out the ratings and cycle under the previous anniversary date-of-grade policy and cycle?

All proficiency ratings under the current date-of-grade cycle will be closed out with a performance cycle end date of January 28, 2024, unless an extension is necessary. For those employees who had not been under their anniversary date-of-grade cycle for a minimum of 90-days as of January 28, 2024, rating cycle end dates are extended until April 29, 2024, to allow for an adequate amount of time to provide a meaningful rating.

When will the rating cycle begin for the new fiscal year cycle, seeing that the policy was published during the middle of the fiscal year?

The new rating cycle, for FY 2024 only, will begin the date of publication of the new policy, January 29, 2024, and will end September 30, 2024, unless an extension for the in-progress appraisal is necessary. For those proficiencies requiring an extension due to the employee not being under their current date-of-grade cycle for 90 days, their proficiency cycle for FY 2024 will be April 30, 2024, through September 30, 2024. These shortened cycles are only applicable for FY 2024 due to the implementation of the new policy. For FY 2025 and beyond, the cycle will be October 1 through September 30.

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When can supervisors begin creating new proficiencies for the fiscal year rating cycles in ePerformance?

The enhancements to ePerformance to align with the changes to the new proficiency policy and cycle are underway, but not yet completed. As soon as the enhancements to the system are completed and training has been provided, Supervisors/Raters can begin creating new proficiencies for the new fiscal year cycle. More information will be sent to the field once the specific dates are known.

If supervisors/raters have not yet created proficiencies for their employees for the current anniversary date-of-grade cycle, may supervisors/raters do that at any time?

No. If supervisors/raters have not yet created proficiencies for the current anniversary date-of-grade cycle, they must do so before the enhancements to ePerformance have been completed, which is anticipated to occur by March 1, 2024. Once the enhancements to ePerformance have been completed to align with the new fiscal year rating cycle, supervisors will no longer be able to create proficiencies under the previous anniversary date-of-grade cycle.