**THE SECRETARY OF VETERANS AFFAIRS**
**WASHINGTON**

July 31, 2020

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036

Re: Office of Special Counsel File No. DI-19-3969

Dear Mr. Kerner:

I am responding to your July 30, 2019, letter to the Department of Veterans Affairs (VA) regarding whistleblower allegations that employees at the Central Alabama Veterans Health Care System in Montgomery, Alabama, engaged in conduct that constitutes violation of law, rule and regulation; engaged in gross mismanagement; or created a substantial and specific danger to public health or safety.

The Executive in Charge, Office of the Under Secretary for Health, directed the Office of the Medical Inspector to assemble and lead a VA team to conduct an investigation. We investigated this matter on October 23, 2019, with a telephone interview and a site visit on October 29-30, 2019. We substantiate two of the whistleblower's allegations and partially substantiate one of the whistleblower's allegations. We make 13 recommendations to the Central Alabama Veterans Health Care System; 14 recommendations to the Veterans Integrated Service Network 7; and 3 recommendations to the Veterans Health Administration. The recommendations within the report will not be acted upon until the report is signed and dispatched to the respective offices with a request for an action plan.

Thank you for the opportunity to respond.

Sincerely,

Robert L. Wilkie

Enclosure

# DEPARTMENT OF VETERANS AFFAIRS

## Washington, DC

## Report to the Office of Special Counsel
## OSC File Number DI-19-3969

## Central Alabama Veterans Health Care System

## Montgomery, Alabama

**June 5, 2020**

2019-C-28

## Executive Summary

The Executive in Charge, Office of the Under Secretary for Health, directed the Office of the Medical Inspector (OMI) to assemble and lead a Department of Veterans Affairs (VA) team to investigate allegations submitted to the Office of Special Counsel (OSC) concerning the Central Alabama Veterans Health Care System (hereafter, CAVHCS), located in Montgomery, Alabama. The whistleblower, a [redacted] who consented to the release of [redacted] name, alleged employees have engaged in actions that constitute violation of a law, rule, or regulation; engaged in gross mismanagement; or created a substantial and specific danger to public health or safety. We conducted telephone interviews with eight staff members from the CAVHCS Community Care on October 23, 2019, and followed up with a site visit on October 29–30, 2019. The site visit was initially scheduled for the week of September 23, 2019; however, on September 20, 2019, it was postponed at the request of the Acting Veterans Integrated Service Network (VISN) 7 Director due to leadership changes at the network and facility levels.

### Specific Allegations of the Whistleblower

1. *CAVHCS has a significant shortage of physicians in several service lines, which impedes access to patient care.*

2. *Because of the physician shortage, patients are often referred to non-VA providers in the community.*

3. *The CAVHCS' Community Care Office is overwhelmed with the volume of referrals for non-VA care and patients often wait months for appointments for routine as well as urgent specialty care referrals.*

We **substantiated** allegations when the facts and findings supported the alleged events or actions took place and **did not substantiate** allegations when the facts and findings showed the allegations were unfounded. We were **unable to substantiate** allegations when the available evidence was insufficient to support conclusions with reasonable certainty about whether the alleged event or action took place.

After careful review of findings, we make the following conclusions and recommendations.

### Conclusion for Allegation 1

- We **substantiate** that CAVHCS has a significant shortage of physicians in several service lines, which impedes access to patient care.

### Recommendation(s) to CAVHCS

1. Ensure appropriate efforts are made to retain all CAVHCS physicians in good standing.

2. Establish a physician exit interview process and trend factors that influenced physicians' departures from CAVHCS.

3. Develop a comprehensive orientation process for new physicians, including thorough training on the use of the Electronic Health Record; relevant policies and procedures for their assigned service; formal introductions to clinic team members; and a designated preceptor.

4. Collaborate with the VISN 7 Human Resources Officer to ensure all available recruitment and retention tools are applied, and to ensure all physician vacancies are appropriately posted on usajobs.gov and in relevant professional journals.

**Recommendation(s) to VISN 7**

1. Collaborate with Veterans Health Administration (VHA) to conduct an intense recruitment and hiring strategy for a highly qualified Chief of Staff (CoS) for CAVHCS.

2. Conduct a gap analysis of current services offered at CAVHCS compared to other designated 1c complexity facilities.

3. Consult with VHA to determine if the current 1c complexity level designation for CAVHCS remains applicable.

4. Assess all clinical disciplines for the ability to adequately maintain the required competencies to care for a complex Veteran population.

5. Define the scope of services that can be consistently offered at CAVHCS and develop a comprehensive plan to ensure Veterans receive the health care they require and the services to which they are entitled.

6. Provide guidance and oversight to CAVHCS regarding available recruitment and retention tools. Ensure all physician vacancies are appropriately posted on usajobs.gov and in relevant professional journals.

7. Consider working with a reputable professional physician recruiter service to assist in filling priority vacancies.

**Recommendation(s) to VHA**

1. Prioritize and oversee the recruitment and hiring of a highly qualified permanent CoS for CAVHCS.

2. Determine the appropriate facility complexity level for CAVHCS to successfully function, and realign resources accordingly.

**Conclusion for Allegation 2**

- We **substantiate** that Veterans are appropriately referred to non-VA providers in the community when services are not available at CAVHCS. This frequently occurs because of the high physician vacancy rate in specialty services and an underutilized standard inpatient surgery program.

**Recommendation(s) to CAVHCS**

None.

**Recommendation(s) to VISN 7**

8. Conduct a gap analysis of current surgical specialties offered at CAVHCS compared to other designated 1c complexity facilities.

9. Consult with VHA to determine the appropriate operative complexity designation for the CAVHCS surgery program.

10. Define the scope of surgical services that can be consistently offered at CAVHCS and develop a comprehensive plan to ensure Veterans receive the surgical services they require.

11. Develop an action plan to address the findings identified in the CAVHCS Surgery Program Review (November 20, 2019) to include a long-standing culture and preference to perform "low volumes of low complexity procedures in low risk patients," to send out Veterans who require a higher level of care, and the risk aversion to provide care typically rendered at a 1c facility with a standard inpatient surgery program.

**Recommendation(s) to VHA**

3. Determine the appropriate operative complexity level for the CAVHCS surgery program to successfully function and realign resources accordingly.

**Conclusions for Allegation 3**

- We **substantiate** the CAVHCS Community Care Office is overwhelmed with the volume of referrals for non-VA care. In addition to volume, staffing issues and insufficient training contributed to the overwhelmed state of the office.

- We **substantiate** some CAVHCS Veterans waited more than 2 months for the actual appointment date for their routine community care consult in fiscal year (FY) 2019. However, that has not been the case to date in FY 2020 Quarter 1 and 2; as CAVHCS is averaging 36.6 days from the date a routine community care consult is entered to the actual appointment date.

- We **do not substantiate** that Veterans are waiting months for a non-VA care stat consult appointment. In FY 2019, the average wait time was 3 days from stat consult entry to appointment date, and in FY 2020 Quarters 1 and 2, the average wait time to date is 0.7 days. It appears appointments were made after the actual appointment date in FY 2019, and only 4 stat consults took longer than 48 hours to complete.

**Recommendation(s) to CAVHCS**

5. Immediately review the care of the four Veterans whose stat appointments were greater than 48 hours after a stat consult was entered; determine if there was any Veteran harm, and act in accordance with VHA Directive 1004.08, *Disclosure of Adverse Events to Patients*, dated October 31, 2018, as appropriate.

6. Recruit for a permanent and full-time Medical Director for the CAVHCS Community Care Program.

7. Evaluate the current organizational chart for the CAVHCS Office of Community Care and identify staffing requirements using the VHA Office of Community Care Staffing Tool to increase overall productivity and to meet program consult management requirements.

8. Ensure all CAVHCS Community Care Program staff members and leaders are familiar with and use the online VHA Office of Community Care National Guidelines and the content, processes, and Standard Operating Procedures provided in the online Community Care Field Guidebook.

9. Ensure all CAVHCS Community Care Program staff members and leaders are familiar with and use the Screening Triage Tool to assist them in understanding the care coordination needs of the Veteran on a consult-level basis.

10. Collaborate with the VISN 7 Business Health Program Manager to provide support to the new Nurse Manager, and to incorporate VHA Office of Community Care National Guidelines into the practice of all CAVHCS Community Care staff members.

11. Ensure performance plans for the Acting Medical Director, Nurse Manager, and all staff members working for the CAVHCS Community Care Program are sufficiently detailed to allow for clear understanding of job expectations.

12. Provide formal training to all staff members working for the CAVHCS Community Care Program relevant to each discipline’s performance expectations.

13. Hold all CAVHCS Community Care staff members accountable for their performance and provide frequent feedback throughout the year with opportunities to improve.

**Recommendation(s) to VISN 7**

12. Assign the VISN 7 Business Health Program Manager to direct and guide the efforts of reducing the community care consult backlog in consultation with CAVHCS executive leadership, to include the Acting Medical Director and Nurse Manager for the CAVHCS Community Care Program.

13. Assign the VISN 7 Business Health Program Manager to mentor the CAVHCS Community Care Program Nurse Manager to ensure VHA Office of Community Care National Guidelines are implemented, familiarity with the contents of the Community Care Field Guidebook, and to guarantee clear expectations are set for CAVHCS Community Care Program Registered Nurses and Medical Support Assistants.

14. Provide necessary resources to the CAVHCS Office of Community Care to ensure adequate staffing is recruited and hired to meet workload demands.

**Summary Statement**

We developed this report in consultation with other VHA and VA offices to address OSC's concern that CAVHCS may have engaged in actions that constitute violation of a law, rule, or regulation; engaged in gross mismanagement, or created a substantial and specific danger to public health or safety. We found CAVHCS has a significant shortage of physicians in several service lines and an underachieving standard inpatient surgery program, which makes it unlikely that CAVHCS is functioning at the 1c complexity level for which it is designated, and leads to a high volume of Veterans being referred to non-VA providers in the community while overwhelming the CAVHCS Office of Community Care. Routine referrals for community care are often delayed. Although our findings do not constitute a violation of a law, rule, or regulation, they do support gross mismanagement and a potential danger to public health or safety.

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## I. Introduction

The Executive in Charge, Office of the Under Secretary for Health, directed the Office of the Medical Inspector (OMI) to assemble and lead a Department of Veterans Affairs (VA) team to investigate allegations submitted to the Office of Special Counsel (OSC) concerning the Central Alabama Veterans Health Care System (hereafter, CAVHCS), located in Montgomery, Alabama. The whistleblower, a who consented to the release of name, alleged employees have engaged in actions that constitute violation of a law, rule, or regulation; engaged in gross mismanagement; or created a substantial and specific danger to public health or safety. We conducted telephone interviews with eight staff members from the CAVHCS Community Care, on October 23, 2019, and followed up with a site visit on October 29–30, 2019. The site visit was initially scheduled for the week of September 23, 2019; however, on September 20, 2019, it was postponed at the request of the Acting Veterans Integrated Service Network (VISN) 7 Director due to leadership changes at the network and facility levels.

## II. Facility Profile

A part of VISN 7**,** CAVHCS comprises of two campuses and is classified as a 1c facility. The Veterans Health Administration (VHA) uses a classification system for facilities at levels 1a, 1b, 1c, 2, or 3, with level 1a being the most complex and level 3 being the least. The West Campus (Montgomery) provides Acute Care and Specialty Medicine, Surgery, Intensive Care Unit, Outpatient Psychiatry, and Home-Based Primary Care. The East Campus (Tuskegee) medical center operates a 100-bed New Horizon Community Living Center, which includes a 10-bed Palliative Care Unit, 10-bed Acute Care Comprehensive Integrated Inpatient Rehabilitation Program and 30-bed High Intensity Psychiatric Inpatient Unit. It also provides a Mental Health Residential Treatment Program, consisting of a 43-bed Domiciliary Residential Rehabilitation Therapy Program, a 30-bed Psychosocial Residential Rehabilitation Treatment Program and 12 beds in the community for Compensated Work Therapy transitional residents.

Montgomery VA Clinic is an annex to the East Campus providing Primary Care, Women's Health, Optometry, Prosthetics, Dental, and Mental Health services. Community Based Outpatient Clinics (CBOC) are in Dothan, Enterprise Fort Rucker, Monroeville, and Montgomery, Alabama. There are two CBOCs in Georgia: Fort Benning and Columbus, Georgia. All CBOCs offer Primary Care and Mental Health services. Columbus, Georgia is one of the six major Veteran population areas served by CAVHCS. In anticipation of many returning Operation Enduring Freedom/Operation Iraqi Freedom/Operation New Dawn (OEF/OIF/OND) Veterans, the Columbus CBOC recently increased providers, services and space to accommodate their needs. The VA Wiregrass Clinic, located on Fort Rucker Army Post in the Lyster Army Health Clinic, is a VA/Department of Defense (DoD) collaboration. The Maxwell Air Force Base (AFB)/VA Podiatry Clinic provides care to Veterans, active duty Service members, and their families in the 42nd Medical Group facility on Maxwell AFB. Activation of the Fort Benning CBOC and a Resource Sharing Agreement with DoD added 12 specialty clinic services through Fort Benning's Martin Army Community Hospital.

## III. Specific Allegations of the Whistleblower

1. *CAVHCS has a significant shortage of physicians in several service lines, which impedes access to patient care.*

2. *Because of the physician shortage, patients are often referred to non-VA providers in the community.*

3. *The CAVHCS' Community Care Office is overwhelmed with the volume of referrals for non-VA care and patients often wait months for appointments for routine as well as urgent specialty care referrals.*

## IV. Conduct of Investigation

The VA team conducting the investigation consisted of a Senior Medical Investigator and a Clinical Program Manager from OMI, as well as a representative from the Office of Community Care National Program Office (OCCNPO), and a Human Resources consultant. We reviewed relevant directives, handbooks, policies, procedures, medical records, professional standards, reports, memos, documents provided by the whistleblower and other documents listed in Attachment A. We interviewed the whistleblower on September 10, 2019, held entrance and exit briefings with the Acting VISN 7 Director, Acting CAVHCS Medical Center Director and other members of the leadership team.

We interviewed the following CAVHCS employees:

- Acting Director, VISN 7
- Business Health Program Manager, VISN 7
- Acting Medical Center Director (MCD)
- Acting Chief of Staff (CoS)
- Deputy Chief of Staff (DCoS)
- Former Associate Director for Patient Care Services (ADPCS)
- Chief of Quality, Safety and Value (QSV)
- Risk Manager (RM)
- Patient Safety Manager (PSM)
- Chief Human Resources Officer (HRO)
- Group Practice Manager
- Two Cardiologists
- Endocrinologist
- Surgeon
- Former Associate Chief of Staff (ACoS) for Acute Care and Specialty Care
- Acting ACoS for Acute Care and Specialty Care
- Nurse Manager, Operating Room
- Nurse Manager, Specialty Clinics
- Administrative Officer on Duty (AOD)
- Former Administrative Officer, Department of Surgery

- Acting Chief, Office of Community Care
- Nurse Manager, Office of Community Care
- Program Manager, Office of Community Care
- Supervisory Medical Support Assistant, Office of Community Care,
- Medical Support Assistant, Office of Community Care
- Two Registered Nurses (RN), Office of Community Care

## V. Findings, Conclusions and Recommendations

### Allegation 1

*CAVHCS has a significant shortage of physicians in several service lines, which impedes access to patient care.*

### Findings

Several members of the CAVHCS executive leadership team had recently been detailed into their positions. The MCD, Associate MCD, ADPCS and CoS positions are occupied by individuals who have been temporarily detailed into these roles.

At the time of the site visit the physician vacancy rate, based on approved organizational charts was 50.3%. At least 82 of the 163 authorized physician positions are vacant, which includes the CoS position. As a result of the high vacancy rate, CAVHCS is unable to provide specialty services in Dermatology, Nephrology, Neurology, Gastroenterology, Rheumatology, Oncology and Ophthalmology. Although Endocrinology, Urology, Radiology, Primary Care and Pulmonology services are available at CAVHCS, all of these services have physician vacancies. CAVHCS has three Cardiologists; however, only general non-invasive Cardiology services are offered.

CAVHCS is designated as a 1c complexity level, which equates to having a medium to high volume, high-risk patients, many complex clinical programs, and medium to large research and teaching programs.[1] However, a 50.3% physician vacancy rate makes it unlikely that CAVHCS is functioning at the 1c complexity level for which it is designated. The average daily inpatient census is less than 10 Veterans, which raises concern for clinical personnel's ability to adequately maintain the competencies required to care for a complex Veteran population.

The CoS position has been vacant for over 2 years and has been occupied by several individuals temporarily serving in the role. The CoS is a pivotal executive leader who typically oversees all physicians and plays a crucial role in the recruitment and retention of physician staff members. Several witnesses reported that the geographic location of CAVHCS and non-competitive salaries make the recruitment of qualified physicians very difficult. Witnesses indicated that CAVHCS has lost several good

[1] VHA Facility Complexity Level Model Fact Sheet, October 1, 2017. http://opes.vssc.med.va.gov/Pages/Facility-Complexity-Model.aspx.

physicians over the years because of a lack of retention efforts, including retention bonuses. Several physicians raised concerns about the insufficient orientation process for new physicians; identified a need for a longer orientation period that includes comprehensive training on how to effectively use the Electronic Health Record (EHR) (similar to the EHR orientation provided for new nursing personnel); as well as a supportive working environment for new physicians that includes clear communication and teamwork with other clinic personnel.

The Acting CoS at the time of our site visit had been in the role for more than 5 months and appeared to be engaged and committed to addressing the physician vacancy rate. He instituted a weekly meeting with Human Resources, and clinical service chiefs and their Administrative Officers, to focus on recruitment efforts and determine hiring priorities.

**Conclusion for Allegation 1**

- We **substantiate** that CAVHCS has a significant shortage of physicians in several service lines, which impedes access to patient care.

**Recommendation(s) to CAVHCS**

1. Ensure appropriate efforts are made to retain all CAVHCS physicians in good standing.

2. Establish a physician exit interview process and trend factors that influence physicians' departures from CAVHCS.

3. Develop a comprehensive orientation process for new physicians, including thorough training on the use of EHR; relevant policies and procedures for their assigned service; formal introductions to clinic team members; and a designated preceptor.

4. Collaborate with the VISN 7 Human Resource Officer (HRO) to ensure all available recruitment and retention tools are applied, and to ensure all physician vacancies are appropriately posted on usajobs.gov and in relevant professional journals.

**Recommendation(s) to VISN 7**

1. Collaborate with VHA to conduct an intense recruitment and hiring strategy for a highly qualified CoS for CAVHCS.

2. Conduct a gap analysis of current services offered at CAVHCS compared to other designated 1c complex facilities.

3. Consult with VHA to determine if the current 1c complexity level designation for CAVHCS remains applicable.

4. Assess all clinical disciplines for the ability to adequately maintain the required competencies to care for a complex Veteran population.

5. Define the scope of services that can be consistently offered at CAVHCS and develop a comprehensive plan to ensure Veterans receive the health care they require and the services to which they are entitled.

6. Provide guidance and oversight to CAVHCS regarding available recruitment and retention tools. Ensure all physician vacancies are appropriately posted on usajobs.gov and in relevant professional journals.

7. Consider working with a reputable professional physician recruiter service to assist in filling priority vacancies.

**Recommendation(s) to VHA**

1. Prioritize and oversee the recruitment and hiring of a highly qualified permanent CoS for CAVHCS.

2. Determine the appropriate facility complexity level for CAVHCS to successfully function, and realign resources accordingly.

**Allegation 2**

*Because of the physician shortage, patients are often referred to non-VA providers in the community.*

**Definitions**

**Operative Complexity:** VHA establishes the infrastructure that is required at a VHA facility in relationship to the complexity of the surgical procedures being performed. This requirement ensures that the scope of the surgical procedure is within the capability of the facility. This requirement makes sure that surgeries are performed under the safest possible conditions. In an inpatient surgical program, each surgical procedure is assigned an operative complexity designation of Standard, Intermediate, or Complex. In an ambulatory surgical program, each surgical procedure is assigned an operative complexity designation of either Basic or Advanced.[2]

**Facility Infrastructure:** VHA facility infrastructure refers to diagnostic evaluation; consultation; surgical physician staffing; operating room staffing, instruments, equipment, coverage, and radiology; anesthesia services; post anesthesia care unit; intensive care unit; ward; supply, processing, and distribution; and other support services related to a surgical procedure.[3]

[2] U.S. Department of Veterans Affairs, VHA Operative Complexity. August 23, 2019. https://www.va.gov/health/surgery/.
[3] U.S. Department of Veterans Affairs, VHA Operative Complexity. August 23, 2019. https://www.va.gov/health/surgery/.

## Findings

As a result of a high physician vacancy rate, CAVHCS is unable to provide specialty services in Dermatology, Nephrology, Neurology, Gastroenterology, Rheumatology, Oncology and Ophthalmology. Several witnesses approximated 35% of CAVHCS consults are requests for care in the community. Veterans seeking specialty care services unavailable at CAVHCS are referred to community care.

During our site visit, the Acting CoS disclosed that he found the complexity of the surgical services offered at CAVHCS to be very low, which prompted him to request VISN 7 leadership to review the CAVHCS surgery program. The operative complexity for the CAVHCS inpatient surgical program is standard.[4] The VISN facilitated a review of the CAVHCS surgery program on November 20, 2019. In summary, the reviewers identified a long-standing culture and preference throughout the facility to perform "low volumes of low complexity procedures in low risk patients," to send out Veterans who require a higher level of care, and a significant "degree of risk aversion."[5] CAVHCS has two general surgeons who perform approximately 75% of the procedures conducted in the operating room. However, the majority of these procedures are endoscopic procedures and are usually performed in a procedure room at other facilities that have the same standard inpatient surgery program designation. The reviewers found the procedures and the patient care offered at CAVHCS to be more aligned with an ambulatory basic surgery facility.[6]

While CAVHCS has the physical infrastructure to support the standard inpatient surgery program requirements, CAVHCS lacks functional surgical sections like Otolaryngology, Ophthalmology, Urology, and Orthopedics, resulting in very few surgeries being performed. As a result, Veterans in need of these surgical specialties are referred out to community providers.

## Conclusion for Allegation 2

- We **substantiate** that Veterans are appropriately referred to non-VA providers in the community when services are not available at CAVHCS. This frequently occurs because of the high physician vacancy rate in specialty services and an underutilized standard inpatient surgery program.

## Recommendation(s) to CAVHCS

None.

[4] Inpatient standard invasive procedures are typically performed on a same day basis and require an ICU with the ability to provide hemodynamic monitoring and respiratory support of the patient delayed in recovering from general anesthesia; pharmacy and blood bank during weekday duty hours; an ED; and a physician call schedule to support the invasive services provided. Examples of inpatient standard invasive procedures are amputation lower extremity, appendectomy, tonsillectomy, cholecystectomy and cardiac pacemaker insertion.
[5] Central Alabama Veterans Health Care System Surgery Program Review. November 20, 2019.
[6] Ibid.

**Recommendation(s) to VISN 7**

8. Conduct a gap analysis of current surgical specialties offered at CAVHCS compared to other designated 1c complex facilities.

9. Consult with VHA to determine the appropriate operative complexity designation for the CAVHCS surgery program.

10. Define the scope of surgical services that can be consistently offered at CAVHCS and develop a comprehensive plan to ensure Veterans receive the surgical services they require.

11. Develop an action plan to address the findings identified in the CAVHCS Surgery Program Review (November 20, 2019) to include a long-standing culture and preference to perform "low volumes of low complexity procedures in low risk patients," to send out Veterans who require a higher level of care, and the risk aversion to provide care typically rendered at a 1c facility with a standard inpatient surgery program.

**Recommendation(s) to VHA**

3. Determine the appropriate operative complexity level for the CAVHCS surgery program to successfully function and realign resources accordingly.

**Allegation 3**

*The CAVHCS Community Care Office is overwhelmed with the volume of referrals for non-VA care and patients often waiting months for appointments for routine as well as urgent specialty care referrals.*

**Findings**

We learned that CAVHCS Community Care Office was realigned under the Acting CoS on October 1, 2019. The office was previously aligned under the ADPCS; however, the acting leadership determined the realignment under the CoS position would enhance oversight and management of the entire Community Care Program.

We reviewed VHA Support Service Center consult data from September 2018 through March 2020, and found CAVHCS receives on average 198 community care consults per business day. The OCCNPO identified three concurrent metrics to track for Community Care readiness, including pending consults that are open equal or less than 7 days, active consults that are open equal or less than 30 days, and scheduled consults that are open equal or less than 90 days.[7] The Acting Medical Director for the Community

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[7] Community Care Consult Status Definitions: Pending status is automatically assigned when requesting provider submits and signs the consult order. The consult remains in pending status until acted upon by a CAVHCS Community Care Program staff member. Active status occurs when a consult is pending more than 7 and efforts are underway to fulfill the consult. Scheduled status indicates that an appointment has been made and linked to the consult request. The consult should be in a scheduled status within 14 days of the consult order date.

Care Program reported that when she began her detail in May 2019, there were over 18,000 open community care consults. At the time of the site visit in October 2019, there were over 16,000 open community care consults. With additional support from VISN 7, CAVHCS has made significant progress in managing their community care consults. As of March 24, 2020, CAVHCS had 4,245 open community care consults; 85.6% of pending consults are open for 7 days or less; 50.4% of active consults are open for 30 days or less; and 82.25% of scheduled consults are open for 90 days or less.

Historically, individual staff member productivity was not measured for the Community Care Program. We were told that in the past there were multiple employees working for the CAVHCS Community Care Program who did not perform their assignments or carry out their responsibilities as directed. These issues contributed to the backlog in consults, but also created a situation in which Community Care Program employees did not understand what was expected of them, and in some cases, were not trained effectively on how to perform their job functions. When the VISN 7 team attempted to intervene and make improvements to the program, some Community Care Program staff members requested remedial training, as well as the provision of emails that were previously sent with information that was intended to help them effectively manage the community care consults.

VISN 7 leadership made efforts to implement corrective actions to address the consult processing backlogs at CAVHCS. These efforts included training and guidance on how to effectively manage community care consults. We received testimony; however, the former nursing leadership responsible for oversight of the CAVHCS Community Care Program and the day-to-day operations were resistant to change and not cooperative with VISN 7 efforts to implement corrective actions. They did not set clear expectations for frontline staff members and there was a lack of accountability. These nursing leaders have since left CAVHCS. The CAVHCS Community Care Program was realigned under the Acting CoS on October 1, 2019. Additionally, the CAVHCS Community Care Program has a new Acting Medical Director and a new Nurse Manager who both started in May 2019. The Acting Medical Director of the Community Care Program is also the Chief of Dental Service, which is a taxing workload. However, recruitment is underway for a permanent Medical Director to oversee the program. The Acting CoS indicated Community Care staff members are overwhelmed due to the high volume of consults they receive, and also because the new leadership has now provided remedial training and clearly identified performance expectations. The CAVHCS Community Care Program staff members now have a clear understanding of what their job entails. Leadership will monitor productivity and accuracy of work performed and will address any area where expectations are not met. In addition to reinforcing performance expectations, the Acting CoS is working with the Acting Medical Director for the Community Care Program to ensure staff members have the tools, support, and environment needed to be successful. A new administrative officer was hired to the Community Care Program, to provide administrative support previously not available.

VISN 7 is currently working with the CAVHCS Acting CoS to facilitate the implementation of tools to measure individual productivity. The Nurse Manager for the

Community Care Program is responsible for managing the workload of the Community Care Program nursing staff and making their daily assignments. The Nurse Manager did not appear to be familiar with the resources available to her on the VHA Office Of Community Care website, including the Office of Community Care Field Guidebook. The Guidebook includes an outline of what is required at the facility Community Care Office level, as well as step-by-step instructions and Standard Operating Procedures (SOP) on how to accomplish the work that needs to be done.

We found the VISN 7 Business Health Program Manager to be extremely knowledgeable regarding the VHA Office of Community Care National Guidelines and the contents of the Community Care Field Guidebook. Prior to the executive leadership changes at CAVHCS and the changes in leadership for the CAVHCS Community Care Program, the VISN 7 Business Health Program Manager developed a business case, created milestone charts, outlined step-by-step processes, implemented a Tiger Team and assigned additional resources to the CAVHCS Community Care Office in an effort to help CAVHCS meet performance expectations. However, the former nursing leadership resisted the guidance and support of the VISN 7 Business Health Program Manager. Since that time, the Acting Medical Director of the CAVHCS Community Care Program has welcomed the resources and support of the VISN 7 Business Health Program Manager offers, and they have established a collaborative working relationship.

We learned that the CAVHCS Community Care Program has several staffing vacancies, which also hinders their ability to manage the high volume of workload. The Acting Medical Director for the Community Care Program reported that the program's organizational chart is from 2015 and does not reflect the current staffing needs. She estimated the program needs at least 20 additional Medical Support Assistants (MSA) and at least an additional 13 RNs. Additionally, the CAVHCS Community Care Program is slated to transition in May 2020 to use, when appropriate, the Community Care Network (CCN) contract. The change to the CCN contract will require additional staffing resources for the Community Care Program because the CAVHCS Community Care staff members will be taking on the responsibility of scheduling all community care appointments for Veterans. While there is a draft of a new organizational chart that was completed by former leadership of the Community Care Program, it has not been signed by the executive leadership.

There are only two types of consult priority within VHA's system: routine and stat. We believe that when the whistleblower referred to "urgent specialty care referrals," they meant stat consults. The whistleblower could not provide any examples of delayed stat consults or Veteran identifiers. We asked every staff member interviewed if they were aware of any Veteran who had a stat community care consult that went unscheduled for months, and no witness could recall a situation in which a stat consult was not scheduled promptly or had ever heard about such a case.

We reviewed community care consult data for FY 2019, and found that CAVHCS averaged 72.2 days from the date a routine community care consult was entered to the actual appointment date. Therefore, some Veterans did wait more than 2 months for the

actual appointment date for their routine community care consult in FY 2019. However, that has not been the case for FY 2020 Quarters 1 and 2, the community care consult data for FY 2020 showed that CAVHCS averaged 36.6 days from the date a routine community care consult was entered to the actual appointment date.

We reviewed community care consult data for FY 2019, and found that CAVHCS averaged 3 days from the date a stat community care consult was entered to the actual appointment date. Although CAVHCS had 90 stat community care consults in FY 2019, it appears appointments were made after the actual appointment date. We determined only 4 stat consults took longer than 48 hours to complete; 1 consult took 15 days, and the 3 other consults took 72 hours. The community care consult data for FY 2020 Quarters 1 and 2 showed CAVHCS averaged 0.7 day from the date the community care consult was entered to the actual appointment date.

**Conclusions for Allegation 3**

- We **substantiate** the CAVHCS Community Care Office is overwhelmed with the volume of referrals for non-VA care. In addition to volume, staffing issues and insufficient training contributed to the overwhelmed state of the office.
- We **substantiate** some CAVHCS Veterans waited more than 2 months for the actual appointment date for their routine community care consult in FY 2019. However, that has not been the case to date in FY 2020 Quarter 1 and 2, as CAVHCS is averaging 36.6 days from the date a routine community care consult is entered to the actual appointment date.
- We **do not substantiate** that Veterans are waiting months for a non-VA care stat consult appointment. In FY 2019, the average wait time was 3 days from stat consult entry to appointment date, and in FY 2020 Quarters 1 and 2, the average wait time to date is 0.7 days. It appears appointments were made after the actual appointment date in FY 2019, and only 4 stat consults took longer than 48 hours to complete.

**Recommendation(s) to CAVHCS**

5. Immediately review the care of the four Veterans whose stat appointments were greater than 48 hours after a stat consult was entered, determine if there was any Veteran harm, and act in accordance with VHA Directive 1004.08, *Disclosure of Adverse Events to Patients*, dated October 31, 2018, as appropriate.
6. Recruit for a permanent and full-time Medical Director for the CAVHCS Community Care Program.
7. Evaluate the current organizational chart for the CAVHCS Office of Community Care and identify staffing requirements using the VHA Office of Community Care Staffing Tool to increase overall productivity and to meet program consult management requirements.

8. Ensure all CAVHCS Community Care Program staff members and leaders are familiar with and use the online VHA Office of Community Care National Guidelines and the content, processes, and SOPs provided in the online Community Care Field Guidebook.

9. Ensure all CAVHCS Community Care Program staff members and leaders are familiar with and use the Screening Triage Tool to assist them in understanding the care coordination needs of the Veteran on a consult-level basis.

10. Collaborate with the VISN 7 Business Health Program Manager to provide support to the new Nurse Manager, to incorporate VHA Office of Community Care National Guidelines into the practice of all CAVHCS Community Care staff members.

11. Ensure performance plans for the Acting Medical Director, Nurse Manager, and all staff members working for the CAVHCS Community Care Program are sufficiently detailed to allow for clear understanding of job expectations.

12. Provide formal training to all staff members working for the CAVHCS Community Care Program relevant to each discipline's performance expectations.

13. Hold all CAVHCS Community Care staff members accountable for their performance and provide frequent feedback throughout the year with opportunities to improve.

**Recommendation(s) to VISN 7**

12. Assign the VISN 7 Business Health Program Manager to direct, and guide the efforts of reducing the community care consult backlog in consultation with CAVHCS executive leadership, to include the Acting Medical Director and Nurse Manager for the CAVHCS Community Care Program.

13. Assign the VISN 7 Business Health Program Manager to mentor the CAVHCS Community Care Program Nurse Manager to ensure VHA Office of Community Care National Guidelines are implemented, familiarity with the contents of the Community Care Field Guidebook, and to guarantee clear expectations are set for CAVHCS Community Care Program RNs and MSAs.

14. Provide necessary resources to the CAVHCS Office of Community Care to ensure adequate staffing is recruited and hired to meet workload demands.

## VI. Summary Statement

We developed this report in consultation with other VHA and VA offices to address OSC's concern that CAVHCS may have engaged in actions that constitute violation of a law, rule, or regulation; engaged in gross mismanagement; or created a substantial and specific danger to public health or safety. We found CAVHCS has a significant shortage of physicians in several service lines and an underachieving standard inpatient surgery program, which makes it unlikely that CAVHCS is functioning at the 1c complexity level for which it is designated, and leads to a high volume of Veterans being referred to non-

VA providers in the community while overwhelming the CAVHCS Office of Community Care. Routine referrals for community care are often delayed. Although our findings do not constitute a violation of a law, rule, or regulation, they do support gross mismanagement and a potential danger to public health or safety.

**Attachment A**

VHA Directive 1220(1): Facility Procedure Complexity Designation Requirements to Perform Invasive Procedures in any Clinical Setting. May 13, 2019.

VHA Office Of Community Care - Community Care Hub Home https://vaww.va.gov/COMMUNITYCARE/cchub.asp.

Office of Community Care Field Guidebook https://vaww.vha.vaco.portal.va.gov/DUSHCC/DC/DO/CI/OCC_TGB/Pages/OCC%20TGB.aspx.

VHA Facility Complexity Level Model Fact Sheet, October 1, 2017. http://opes.vssc.med.va.gov/Pages/Facility-Complexity-Model.aspx.

U.S. Department of Veterans Affairs, VHA Operative Complexity. August 23, 2019. https://www.va.gov/health/surgery.

Central Alabama Veterans Health Care System Surgery Program Review. November 20, 2019.

Medical Center Organizational Chart.

Department of Medicine Organizational Chart.

Department of Surgery Organizational Chart.

Office of Community Care Organizational Chart.

List of all provider authorized FTEE positions, including mid-level providers, broken out into sub-specialties under Department of Medicine and Department of Surgery, with clear delineation of positions that are occupied or vacant (with date of vacancy and reason (transfer, retirement etc.).

Condensed list of all vacant provider FTEE positions, including all mid-level provider positions.

Exit Interview results for all providers, including mid-level providers who have left CAVHCS since July 1, 2016.

HR documentation that shows recruitment announcements, interviews, selections, job offers, and current status for all vacant provider positions, including all mid-level provider positions since July 1, 2016.

The current status and number of Community Care Referrals broken out into sub-specialties (to include urgent vs. routine) under the Department of Medicine and Department of Surgery, to include pending, active, scheduled, and consults at 30, 60, 90, and 120 days, etc.

All facility policies pertaining to community care referrals and consult management.

Workload reports for all provider services, including mid-level providers broken out into sub-specialties under Department of Medicine and Department of Surgery.

Relevant Quality Management Reports.

## Investigative Team – Name Key

- Senior Medical Investigator – .
- Clinical Program Manager –
- VHA Office of Community Care SME –
- Work Force Management/Human Resources SME –

## Interviewees – Name Key

- Acting Director, VISN 7 –
- Business Health Program Manager, VISN 7 –
- Acting Medical Center Director (MCD) –
- Acting Chief of Staff (CoS) – .
- Deputy Chief of Staff (DCoS) – D.
- Former Associate Director for Patient Care Services (ADPCS) –
- Chief of Quality, Safety and Value (QSV) –
- Risk Manager (RM) –
- Patient Safety Manager (PSM) –
- Chief Human Resource Officer (HRO) –
- Group Practice Manager –
- Cardiologists – .
- Endocrinologist –
- Surgeon –
- Former Associate Chief of Staff (ACoS) for Acute Care and Specialty Care –
- Acting ACoS for Acute Care and Specialty Care –
- Operating Room, Nurse Manager –
- Specialty Clinics, Nurse Manager –
- Administrative Officer on Duty (AOD) –
- Former Administrative Officer, Department of Surgery –
- Acting Chief, Office of Community Care –
- Office of Community Care, Nurse Manager –
- Office of Community Care, Program Manager –
- Office of Community Care, Supervisory, Medical Support Assistant –
- Office of Community Care, Medical Support Assistant –

- Office of Community Care, Registered Nurses – [redacted] and [redacted]