



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

April 19, 2022

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-20-000860

Dear Mr. President:

I am forwarding to you reports transmitted to the Office of Special Counsel (OSC) by the Department of Veterans Affairs (VA) in response to the Special Counsel's referral of a disclosure of wrongdoing at the John L. McLellan Memorial Hospital, Little Rock, Arkansas. The whistleblower, Health Technician [REDACTED], who consented to the release of her name, alleged that VA nursing staff failed to conduct and record the results of chlorine concentration tests of dialysis water systems in accordance with agency policies. I have reviewed the agency reports and whistleblower's comments and, in accordance with 5 U.S.C. § 1213(e), have determined that the reports' findings appear reasonable.¹ The following is a summary of those findings.

[REDACTED] explained that chlorine tests must be conducted in the morning prior to dialysis treatment, once every four hours thereafter, and at the end of the work shift. For the health and safety of dialysis patients, it is vital to ensure water used to perform dialysis is safe and clean because these patients can receive 300-600 liters of water per week.² [REDACTED] alleged that the testing log was incomplete and that she observed backdating of test results by VA employees and management. [REDACTED] further alleged that single-use intravenous medication was administered to multiple patients and improperly stored between uses. [REDACTED] also alleged that VA employees regularly consumed food and beverages in the dialysis unit clinical area, in violation of agency policy.

The agency partially substantiated the allegations. The investigation found that VA employees did not consistently conduct or record chlorine concentration tests of the dialysis water systems. The investigation also found the presence of food and beverage in the dialysis unit clinical area, in violation of agency policy. The investigation was unable to substantiate that VA employees intentionally backdated or falsified the testing log but acknowledged in an update to OSC that employees may have "forgotten to annotate the results in the log at times and filled it

¹ The allegations were referred to former Secretary of Veterans Affairs Robert Wilkie for investigation pursuant to 5 U.S.C. § 1213(c) and (d), who tasked the VA Office of Medical Inspector with investigating the matter and preparing the agency's reports. Secretary Denis McDonough reviewed and signed the reports.

² See, Centers for Disease Control and Prevention, *Guidance on Water Use in Dialysis*, available at <https://www.cdc.gov/dialysis/guidelines/water-use.html>.

in the next day.” The investigation further found no evidence that single-use intravenous medication was administered to multiple patients or stored improperly.

In response to the investigation, the agency implemented corrective actions including updating the facility’s standard operating procedures for chlorine testing of the dialysis water systems and by conducting an audit of the testing log until achieving 100% compliance for six consecutive months. In addition, the agency is providing education to staff concerning dialysis procedures, syringe labeling procedures, and the prohibition on food and beverage in designated clinical areas.

█ generally agreed with the reports’ conclusions. But she believed that the agency should have substantiated her allegation that VA employees backdated or falsified the testing log based on the photographs and testimony she provided to investigators.

I thank █ for bringing these allegations to OSC. Based on the foregoing, I have determined that the reports meet all statutory requirements and that the findings appear reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency reports, and the whistleblower’s comments to the Chairs and Ranking Members of the Senate and House Committees on Veterans’ Affairs. I have also filed redacted versions of these documents and the referral letter in our public file, which is available at www.osc.gov. This matter is now closed.

Respectfully,

A handwritten signature in black ink, appearing to read "Henry J. Kerner", with a stylized flourish at the end.

Henry J. Kerner
Special Counsel

Enclosures