

DEPARTMENT OF VETERANS AFFAIRS

Washington, DC

**Report to the
Office of Special Counsel**

OSC File Number DI-21-000253

**VA Long Beach Healthcare System
Long Beach, California**



Report Date: January 25, 2022

TRIM 2021-C-9

Executive Summary

The Acting 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 whistleblower disclosures made to the Office of Special Counsel (OSC) concerning the VA Long Beach Healthcare System (HCS) (hereafter, Long Beach) located in Long Beach, California. The whistleblower alleged officials engaged in actions that may constitute a violation of laws, rules and regulations, gross mismanagement and a substantial and specific danger to public health. We conducted a virtual investigation at Long Beach from May 24-27, 2021.

Specific Allegation(s) of the Whistleblower

1. *Long Beach VA HCS staff do not consistently activate the medical records audit trail, compromising the integrity of electronic medical records and violating the "HIPAA Security Rule" and VHA directives related to preservation and maintenance of health records and health record alterations and modifications; and*
2. *Despite efforts to ensure Long Beach VA HCS employees follow the proper procedures under VHA directives, improper deletion and modification of electronic medical records have persisted.*

We **substantiated** allegations when the facts and findings supported that the alleged events or actions took place and **did not substantiate** allegations when the facts and findings showed the allegations were unfounded. We were **not able 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 the findings, we make the following conclusions and recommendations.

Conclusion(s) for Allegation 1

- We **do not substantiate** that Long Beach staff do not consistently activate the medical records audit trail, compromising the integrity of electronic medical records. The audit trail is initiated automatically at the start of a new record and cannot be terminated.
- We **substantiate** that Long Beach violated the Health Insurance Portability and Accountability Act (HIPAA) Security Rule and Veterans Health Administration (VHA) policy with past processes that did not align with those required to maintain the integrity of the records.

- The process of manually unlocking medical records as previously utilized by Long Beach staff may result in compromising the integrity of the medical record. Manually altering the medical record could result in either under or over coding along with incorrect billing.

Recommendation(s) to Long Beach

1. Consult VHA Central Office Health Information Management Program Office for program and process review to include compliance with laws and VHA Controlled National Policy.
2. Provide training to Electronic Health Record users and Health Information Management Staff regarding procedures, requirements and documentation for the management of medical record errors. Monitor compliance and address non-compliance with additional training and/or administrative actions, as indicated.

Conclusion(s) for Allegation 2

- We **substantiate** that despite efforts to ensure Long Beach employees follow the proper procedures under VHA Controlled National Policy, improper processes to alter and modify records have persisted.
- The Long Beach Medical Executive Committee (MEC) approval of deleting unsigned medical student notes and retracting un-cosigned notes that have remained for greater than 90 days is in violation of VHA Directive 1907.01, VHA Health Information Management and Health Records, dated April 5, 2021.
- Medical students and residents often do not sign records timely and are often incorrectly assigned to attending physicians, leading to large numbers of unsigned and un-cosigned records.
- Some staff circumvent the authority of the Chief, Health Information Management (CHIM) and continue to provide improper guidance to executive leadership.

Recommendation(s) to Long Beach

1. See Allegation 1, Recommendation #2.
2. Rescind the Long Beach MEC approval of deleting unsigned medical student notes and retracting un-cosigned notes that have remained for greater than 90 days.
3. Implement a process to ensure medical students and residents complete all required electronic signatures timely upon completion of their clinical rotation.

4. Implement a process to ensure medical students and residents are assigned to the correct attending physician for co-signature.
5. Recognize and include the CHIM on all matters pertaining to electronic medical records concerns.

Summary Statement

We developed this report in consultation with other VHA and VA offices to address OSC's concerns. We reviewed the allegations and determined the merits of each. VHA Human Resources examined personnel issues to establish accountability, and the National Center for Ethics in Health Care provided a health care ethics review. We found no evidence that Long Beach staff does not consistently activate the medical records audit trail. We did find evidence that Long Beach violated the "HIPAA Security Rule" and VHA Controlled National Policy regarding integrity of health records. We also found evidence of improper processes to alter and modify records.

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I. Introduction

The Acting 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 whistleblower disclosures made to the Office of Special Counsel (OSC) concerning the VA Long Beach Healthcare System (HCS) (hereafter, Long Beach) located in Long Beach, California. The whistleblower alleged officials engaged in actions that may constitute a violation of laws, rules and regulations, gross mismanagement and a substantial and specific danger to public health. We conducted a virtual investigation at Long Beach from May 24–27, 2021.

II. Facility Profile

Long Beach is one of VA's largest tertiary care facilities and is classified as a Clinical Referral Level 1a facility.¹ Long Beach is a part of VA's Desert Pacific Healthcare Network, and currently serves just over 56,000 unique Veterans. The health care system also maintains six community-based outpatient clinics including two contract supported clinics. In addition to providing Primary and Specialty Care at the main campus, Long Beach also provides an onsite Spinal Cord Injury Center, the Major Charles Robert Soltes Jr., O.D. Blind Rehabilitation Center and a full-service Women's Health Center.

III. Specific Allegations of the Whistleblower

1. *Long Beach VA HCS staff do not consistently activate the medical records audit trail, compromising the integrity of electronic medical records and violating the "HIPAA Security Rule" and VHA directives related to preservation and maintenance of health records and health record alterations and modifications; and*
2. *Despite efforts to ensure Long Beach VA HCS employees follow the proper procedures under VHA directives, improper deletion and modification of electronic medical records have persisted.*

IV. Conduct of Investigation

The VA team conducting the investigation consisted of a Senior Medical Investigator, a detailed Senior Medical Investigator and a Clinical Program Manager all from OMI; a Health Systems Specialist from the Veterans Health Administration (VHA) Health Information Management (HIM); and an Employee/Labor Relations (ELR) Consultant from Human Resources (HR) Center of Expertise. We reviewed relevant policies, procedures, reports, memorandums and other documents listed in Attachment A. We

¹ Complexity 1a facilities have high volume, high risk patients, most complex clinical programs, and large research and teaching programs. VHA Office of Productivity, Efficiency, and Staffing, *Facility Complexity Level Model Fact Sheet* (2017).

interviewed the whistleblower on April 14, 2021 and May 24, 2021. We conducted the virtual site investigation during the week of May 24–27, 2021.

We held an entrance briefing with Veterans Integrated Service Network (VISN) 22 and Long Beach leadership including:

VISN 22

- Chief Nursing Officer (CNO)/Quality Management Officer (QMO)
- Deputy QMO

Long Beach

- Healthcare System Director (HSD)
- Acting Deputy Director
- Associate Director for Patient Care Services (ADPCS)
- Chief of Staff (CoS)
- Chief, Quality, Safety & Value (QSV)

We interviewed the following employees:

VISN 22

- ELR Supervisor
- HR Specialist
- Associate Business Implementation Manager

Long Beach

- HSD
- Deputy ADPCS
- CoS
- Program Analyst, CoS
- Associate CoS, Informatics
- Chief, Primary Care
- Chief, Resident Supervisor
- Vice Chair, Medical Education
- Chief, Surgery Service
- Information System Security Officer
- Informatics Nurse Specialist
- Integrated Ethics Program Officer
- Clinical Psychologist
- Chief, Health Information Management (CHIM)
- HIM Medical Records Administration Specialist
- HIM Program Analyst
- Privacy Officer
- Compliance Officer (2)
- Supervisory Management Analyst
- Chief, Health Administrative Services (HAS)

- HAS, Section Chief
- Occupational Therapist (Advanced Lymphedema Therapist)
- Chief, QSV
- Deputy Chief, QSV
- Risk Manager, DNP, Registered Nurse (RN)
- Patient Safety Manager, RN
- Coding Supervisor
- Patient Advocate

We held an exit briefing with VISN 22 and Long Beach leadership, including:

VISN 22

- Director
- CNO/QMO
- Deputy QMO

Long Beach

- HSD
- ADPCS
- CoS
- Chief, QSV

V. Background, Findings, Conclusions and Recommendations

Allegation 1

Long Beach VA HCS staff do not consistently activate the medical records audit trail, compromising the integrity of electronic medical records and violating the “HIPAA Security Rule” and VHA directives related to preservation and maintenance of health records and health record alterations and modifications.

Background

VHA Directive 1907.01, VHA Health Information Management and Health Records, dated April 5, 2021, outlines HIM programs and provides policy, responsibilities and requirements for health information-related matters, such as medical record documentation, coding and clinical documentation integrity, release of information, file room and scanning, transcription and medical speech recognition, as well as the overall management of health information and Veterans’ health records.²

The VA medical facility Director/HSD is responsible for ensuring the medical facility complies with this directive, appropriate corrective action is taken if non-compliance is identified and standard operating procedures (SOP) or guidelines and procedures for

² VHA Directive 1907.01, VHA Health Information Management (HIM) and Health Records, April 5, 2021.

HIM activities and functions are established and distributed to all VA medical facility staff.³

The Medical Facility CHIM is responsible for performing duties, as needed, to ensure a robust, effective and compliant HIM program including but not limited to training, monitoring and analysis. The CHIM is also responsible for ensuring that the VA medical facility HIM program is compliant with Health Records Program Guide processes, including but not limited to those for health information privacy and security; access and sensitive records; health record documentation; complete and incomplete health records; alterations and modifications; disaster recovery; and record retention, disposition and transfer of health records.⁴

An audit trail can be defined in basic terms as a record that shows who has accessed a computer system, when it was accessed and what operations were performed.⁵ The HIM professionals are most familiar with audit trails that monitor appropriate role-based access to the Electronic Health Record (EHR) including use of the minimum necessary amount of protected health information (PHI) to get an employment-related task accomplished. Other common tasks include electronic oversight of the use of electronic documentation and electronic signature functionality in the EHR. Access to audit trail records must be strictly controlled to ensure the integrity of the records. The numbers of those with security clearance for EHR audit trail record reviews should be quite small. The HIM Service must team with Information Security to ensure fully functional audit trail documentation, with retention times determined by law and organizational risk tolerance.⁶

The Health Insurance Portability and Accountability Act (HIPAA) Security Rule establishes national standards to protect individuals' electronic personal health information that is created, received, used or maintained by a covered entity. The Security Rule requires appropriate administrative, physical and technical safeguards to ensure the confidentiality, integrity and security of electronic PHI.⁷ Compliance with HIPAA requirements are routinely obtained by using audit trails, which track the information required by HIPAA and provide a mechanism for determining if there has been a security breach.

- a) Edits are changes made to an EHR note or other data by the end user, prior to authentication (also called electronic or digital signature) by the end user.
- b) Deletion refers to the intent to remove information from the EHR by the end user, again prior to authentication.
- c) Retraction is the removal from view of EHR data with the retention of original data, which is then indicated as deleted. Only HIM can perform retractions.
- d) An Amendment is an edit to the record based on a request from the Veteran that was approved by Privacy Officer.

³ VHA Directive 1907.01, VHA Health Information Management (HIM) and Health Records, April 5, 2021.

⁴ Ibid.

⁵ Fundamentals of Law for Health Informatics and Information Management. Chicago, IL; AHIMA, 2009, 215.

⁶ www.ahima.org

⁷ *The Security Rule*, Health and Human Services, <https://www.hhs.gov/hipaa/for-professionals/security/index.html>

- e) An Addendum is an additional progress note that is attached to another note.
- f) A provider designated as an Additional Signer by the original author of a record does not have content responsibility for that record.
- g) A provider designated as a Cosigner by the original author of a record does have content responsibility.

Findings

Electronic “keys” allow users the ability to access and utilize particular functions within the EHR with the appropriate training. End users can perform edits and deletions prior to authentication. However, retractions to a patient treatment record (hereafter, record) must include Health Information Management Staff (HIMS) oversight. Several staff have the electronic keys to perform retractions. Currently, the CHIM, a coding supervisor and a program specialist within HIMS have these keys.⁸ According to VHA Directive 1907.01, only the CHIM can perform amendments after approval by the privacy officer. However, we found that Long Beach’s clinical applications coordinators (CAC) also have the keys to perform functions such as retractions and amendments.^{9,10} Once a medical record has been created, the audit trail begins and cannot be deactivated. The audit trail captures and records all changes made to the record.¹¹

According to HIMS, Long Beach has 20-50+ requests for retractions per day. Requests may come from medical students, resident physicians, attending physicians and nursing staff. One former HIMS member (Staff #1) described that they were trained to assist providers with edits, deletions and retractions. Staff #1 stated that starting in 2013, providers and other clinical staff were instructed to contact Staff #1 to request access to records (unlock the record) to alter, modify or retract the record. Once unlocked, staff designated as either an additional signer or a cosigner could be removed from the record. Using this process changes the create date from the original date the note was started to the date the note was unlocked. However, this change does not deactivate the audit trail, and the initial record create date will still be evident in the record’s audit trail.

This process changed when the current CHIM came on board (Date [REDACTED]); shortly thereafter, instructed Staff #1 to “cease and desist” with that process. A second HIMS employee (Staff #2) was disciplined (suspended) for continuing to use this process after

⁸ Electronic “keys” allow users the ability to access and utilize particular functions within the electronic health record with the appropriate training. Any edits or deletions to Patient Treatment File (PTF) records must include HIM oversight. *HIM Erroneous Document Corrections*, March 3, 2017.

⁹ Clinical applications coordinators support members of the health care staff on electronic health records (EHR). Their main duties include implementing support of multi-service clinical software applications used for EHRs and working with the information systems manager to streamline the daily processes involved in EHR. All requests for changes to the EHR must be handled in coordination with the CHIM. *HIM Erroneous Document Corrections*, March 3, 2017.

¹⁰ Amendments are changes that are made to an electronic health record such as erroneous information or unverified reports, etc. Amendments must be requested according to the local process and be completed correctly and in a timely manner. ¹⁰ *HIM Erroneous Document Corrections*, March 3, 2017.

¹¹ *HIM Erroneous Document Corrections*, March 3, 2017.

being instructed to stop. We were informed that the electronic keys to perform these actions have been removed from both Staff #1 and Staff #2 employee's profiles.

Upon review of data retrieved from the corporate data warehouse, we found 39 notes from fiscal year 2019 to present that have a signature date prior to the entry date, with a status of completed, retracted, or amended, indicating that these records were altered or modified.¹² This could have occurred after the record was viewed by other clinical staff, who may have used the original information in their own clinical decision making. Unlocking and then altering or modifying (by edits, deletions, retractions or removal of co-signers) the record puts the integrity of the health record in question.

In the same manner, the HIPAA Security Rule as described previously was also violated as the appropriate administrative, physical and technical safeguards to ensure the confidentiality, integrity and security of electronic PHI were not maintained.

Manually altering or modifying records can also cause problems with coding and third-party billing. If coding and billing were based on original documentation, altering or modifying a record could result in either under- or over-coding along with incorrect billing.

Conclusions for Allegation 1

- We **do not substantiate** that Long Beach staff do not consistently activate the medical records audit trail, compromising the integrity of electronic medical records. The audit trail is initiated automatically at the start of a new record and cannot be terminated.
- We **substantiate** that Long Beach violated the "HIPAA Security Rule" and VHA Controlled National Policy with past processes that did not align with those required to maintain the integrity of the records.
- The process of manually unlocking medical records as previously utilized by Long Beach staff may result in compromising the integrity of the medical record.
- Manually altering the medical record could result in either under or over coding along with incorrect billing.

¹² The Corporate Data Warehouse is a central repository developed in 2006 created to accommodate the massive amounts of data and to streamline the process of knowledge discovery to application. Corporate data warehouse models are often fed by smaller data warehouse systems, with data and metadata flowing into and out of these massive central data storage setups. The CDW program is central to business management, clinical and administrative research, and healthcare system innovation.
https://www.hsrdr.research.va.gov/for_researchers/vinci/cdw.cfm

Recommendations to Long Beach

1. Consult VHA Central Office HIM Program Office for program and process review to include compliance with laws and VHA Controlled National Policy.
2. Provide training to EHR users and HIMS regarding procedures, requirements and documentation for the management of medical record errors. Monitor compliance and address non-compliance with additional training and/or administrative actions as indicated.

Allegation 2

Despite efforts to ensure Long Beach VA HCS employees follow the proper procedures under VHA directives, improper deletion and modification of electronic medical records has persisted.

Background

Health records must be maintained by the provider delivering health care which includes ensuring authentication and integrity of the health information. As noted above, VHA Directive 1907.01 denotes that the CHIM is responsible for ensuring that the VA medical facility HIM program is compliant with the HIM and Health Records Program Guide processes including but not limited to those for health information privacy and security; access and sensitive records; health record documentation; complete and incomplete health records; alterations and modifications; disaster recovery; and record retention, disposition and transfer of health records.¹³ In addition, the CHIM is responsible for performing duties, as needed, to ensure a compliant HIM program including but not limited to training, monitoring and analysis. The CHIM also must ensure erroneous patient health information in VA medical facility health records is corrected electronically or on paper in accordance with the HIM Erroneous Document Corrections Guidebook and the VHA HIM and Health Records Program Guide.

According to VHA Directive 1907.01:

Only the VA medical facility CHIM, Privacy Officer or designee (as determined locally) is authorized to make amendments. No edit, reassignment, deletion, or alteration of any documentation after the manual or electronic signature has been completed can occur without the approval of the CHIM, or designee.

Further, VHA Directive 1907.01 states:

“An author may delete a patient document prior to electronic signature. Electronically signed documents may never be administratively deleted except under certain limited circumstances as designated by the Privacy Officer or Chief HIM. A specific instance where this may occur is when an electronically signed document is totally blank.”

¹³ VHA Directive 1907.01, VHA Health Information Management (HIM) and Health Records, April 5, 2021.

Once data has been linked to a patient, and is viewable to practitioners, it must not be “deleted,” except in rare cases by specially designated personnel... using a “delete” action. The “delete” action, when used on completed documents, maintains the original document, but with the status retracted.

*A document that is written for the correct patient, but is erroneous in content, requires entry of a new document and the deletion of the old erroneous document using the “delete” action.*¹⁴*

With regard to resident physician and medical student supervision, two VHA directives apply. According to VHA Directive 1400.01, Supervision of Physician, Dental Optometry, Chiropractic, and Podiatry Residents, dated November 7, 2019:

“Documentation of supervision must be entered into the patient health record by the supervising practitioner or reflected within the resident progress note or other appropriate entries in the health record and supervising practitioner’s co-signature signifies that the supervising practitioner has reviewed the resident note, and absent an addendum to the contrary, concurs with the content of the resident note or entry.”¹⁵

Per VHA Directive 1400.09(1), Education of Physicians and Dentists, dated September 9, 2016: medical students can document in the medical record, but such documentation is not sufficient for patient care or billing. The responsible attending physician must validate the documentation of care and perform/re-perform the physical examination and decision-making activities of the evaluation and management code being utilized. The attending physician does this by being identified as a co-signer on the record by the medical student and then electronically signing the record.¹⁶ The attending physician can amend the record if they are not in agreement with the student documentation by adding their own signed addendum.

Findings

As noted in Allegation 1, Long Beach HIMS stated they receive 20-50+ retraction requests per day (when extrapolated this equates to 400-1000 per month). We confirmed this by reviewing the Medical Records Committee meeting minutes from October 2020 to April 2021. We found the following number of notes were retracted during this time.¹⁷

¹⁴ According to the CPRS Text Integrated Utilities (TIU) Clinical Application Coordinator and User Manual, the status of deleted is no longer operable. Before the status RETRACTED was introduced, deleting a document removed the text of the document leaving a stub with status DELETED. Currently, “Retracted” is used when a signed document is reassigned, amended, or deleted, a retracted copy of the original is kept for audit purposes.[VA Documentation Library CPRS TIU CAC and User Manual](#).

¹⁵ VHA Directive 1400.01, Supervision of Physician, Dental Optometry, Chiropractic, and Podiatry Residents, November 7, 2019.

¹⁶ VHA Directive 1400.09(1), Education of Physicians and Dentists, September 9, 2016; Amended December 26, 2018.

¹⁷ There are no meeting minutes for the Medical Records Committee (MRC) as the MRC did not meet in December.

Month/Year	Number of Retractions
September 2020	448
October 2020	504
November 2020	418
December 2020	Data Unavailable
January 2021	493
February 2021	373
March 2021	515

Many of the retraction requests were for notes written by trainees (medical students, interns, residents and fellows) who required clinical supervision. Reasons for retraction requests included the designated co-signer (attending physician or supervising provider) not agreeing with assessments and treatment plans documented by the trainee; or the designated co-signer being incorrectly assigned to the note.

In addition, in 2020 the Long Beach Medical Executive Committee (MEC) approved the process of “deleting” unsigned medical student notes and “retracting” signed medical student notes that have remained un-cosigned for greater than 90 days.¹⁸ According to staff testimony, unsigned and/or un-cosigned notes greater than 90 days old may exist for one of two reasons. First, staff reported medical students and residents do not always complete all of their required record signatures prior to leaving their rotation at Long Beach. Second, staff noted that many of the medical students and residents were assigned to the incorrect attending physician during their in-processing for their rotation at Long Beach. Attending physicians incorrectly designated as a co-signer would simply not sign the note. Both factors would increase the number of unsigned and un-cosigned notes. However, blanket retractions of signed medical student notes are not in compliance with VHA Directive 1907.01, which states that once a note is electronically signed, additional documentation must be added to the original document through an addendum.

Several senior clinical staff informed us that there seems to be a communication barrier between the **Employee A** and executive leadership. They also stated that previous HIMS, who continue to work at the facility in other positions, continue to provide executive leadership with “bad advice” on the legal and regulatory requirements associated with maintaining health records, including altering and modifying records. Several staff stated that Staff #1 continues to encourage the retraction of unsigned or un-cosigned resident or medical student notes greater than 90 days old despite HIMS repeatedly communicating this is in violation of VHA Directive 1907.01.

¹⁸ Email from Clinical Applications Coordinator to Deputy Chief, Quality, Safety, and Value, *Reports*, August 17, 2020.

We discovered email evidence that some HIMS circumvented the current CHIM to continue with non-compliant practices. For example, an email from Staff #1 to the Deputy CoS, the Chief of Medicine and Hospitalists, Chief of HAS and the Vice Chair of Medical Education related to retracting unsigned and un-cosigned notes did not include the CHIM on the email chain. In June 2019, the Acting Medical Records Technician Supervisor sent an email to clinical and administrative staff informing staff that:

As a reminder, once a document is signed, it cannot be re-opened and edited without approval of the Privacy Officer and/or HIMS Chief. Documentation can be added to the original document by addenda per VHA 1907.01.¹⁹

The email included highlighted portions of VHA Directive 1907.01 that address editing, signature reassignment, deletions, addendums and amendments of records. However, 4 months later, staff were still instructing residents and physicians to contact the Acting Senior Medical Records Technician to request the unlocking of signed records (progress notes) for the purpose of altering or modifying them.²⁰

In August 2020, the Deputy Chief, QSV, in an email to a CAC, requested a copy of an SOP, memorandum or policy that indicates how the process of retraction is to be implemented.²¹ The CAC only references the decision by the MEC and attaches documentation from another VA medical facility and a copy of the addendum template. The Deputy Chief, QSV, then forwards this request to the CHIM for review and response. The CHIM informs the Deputy Chief, QSV, that there was never an implemented authorized business rule that allows blanket retractions. The CHIM further tells the Deputy Chief, QSV, this is not in alignment with National Health Information Management Directives and Handbooks and is thus not in compliance with VHA Controlled National Policy.²²

In another chain of emails regarding medical student documentation, the CAC was requested, via an information technology work order, to allow a medical student access to view and sign an unsigned note that had been retracted.²³ The CHIM is not consulted until the very end when they were copied onto the email.

Finally, we found an email dated May 25, 2021, from the HIM Medical Records Administrative Specialist regarding the Weekly Dashboard for Unsigned – Un-cosigned notes. The email revealed there were 4,557 unsigned notes from 2000-2021 and a total of 1,230 un-cosigned notes for the month of May 2021.²⁴ Attached was a flyer with

¹⁹ Email from Acting Medical Records Technician Supervisor to clinical staff, *Editing Notes- Addendums and Amendments*, June 14, 2019.

²⁰ Email from Senior Medical Records Technician to CHIM, *Opening Progress Notes*, October 18, 2019.

²¹ Email from Deputy Chief, QSV to Clinical Applications Coordinator, *Is there an SOP, memo, instruction statement, policy, anything that says this is what we do? I need the documentation*, August 17, 2020.

²² Email response from CHIM to Deputy Chief, QSV, *Re: Is there an SOP, memo, instruction statement, policy, anything that says this is what we do? I need the documentation*, August 17, 2020.

²³ Email from Clinical Applications Coordinator to Chief Health Information Officer, *Business Rules*, September 17, 2020.

²⁴ Email from HIM, Medical Records Administration Specialist to staff, *Weekly Dashboard/Unsign - Uncosign Notes Report*, May 25, 2021.

instructions on how to request addendums as incorrect efforts were still being made to unlock, alter and/or modify these notes. (Attachment B)

In support of the current CHIM, several senior clinical staff stated that the CHIM utilizes sound judgement and current regulations to support decisions around the implementation of the business rules and consults with the HIM national program office, when needed. Staff consider the CHIM to be forthright in explaining when practices or processes are not adhering to national policies, SOPs or best practices outlined by the National HIM Program Office.

Conclusions for Allegation 2

- We **substantiate** that despite efforts to ensure Long Beach employees follow the proper procedures under VHA Controlled National Policy, improper processes to alter and modify records have persisted.
- The Long Beach MEC approval of deleting unsigned medical student notes and retracting un-cosigned notes that have remained for greater than 90 days is in violation of VHA Directive 1907.01.
- Medical students and residents often do not sign records timely and are often incorrectly assigned to attending physicians, leading to large numbers of unsigned and un-cosigned records.
- Some staff circumvent the CHIM's authority and continue to provide improper guidance to executive leadership.

Recommendations to Long Beach

1. See Allegation 1, Recommendation #2.
2. Rescind the Long Beach MEC approval of deleting unsigned medical student notes and retracting un-cosigned notes that have remained for greater than 90 days.
3. Implement a process to ensure medical students and residents complete all required electronic signatures timely upon completion of their clinical rotation.
4. Implement a process to ensure medical students and residents are assigned to the correct attending physician for co-signature.
5. Recognize and include the CHIM on all matters pertaining to electronic medical records concerns.

VI. Summary Statement

We developed this report in consultation with other VHA and VA offices to address OSC's concerns. We reviewed the allegations and determined the merits of each. VHA HR examined personnel issues to establish accountability, and the National Center for Ethics in Health Care provided a health care ethics review. We found no evidence that Long Beach staff does not consistently activate the medical records audit trail. We did find evidence that Long Beach violated the "HIPAA Security Rule" and VHA Controlled National Policy regarding integrity of health records. We also found evidence of improper processes to alter and modify records.

Attachment A

Computerized Patient Record System (CPRS) Committee Meeting Minutes, July 2020 – April 2021.

Deletion of unsigned note (more than one year old) process, April 2016.

Email from Acting Medical Records Technician Supervisor to clinical staff, *Editing Notes- Addendums and Amendments*, June 14, 2019.

Email from Senior Medical Records Technician to Chief, Health Information Management (CHIM), *Opening Progress Notes*, October 18, 2019.

Email from Clinical Applications Coordinator to Deputy Chief, Quality, Safety and Value, *Reports*, August 17, 2020.

Email from Deputy Chief, QSV to Clinical Applications Coordinator, *Is there an SOP, memo, instruction statement, policy, anything that says this is what we do? I need the documentation*, August 17, 2020.

Email response from CHIM to Deputy Chief, QSV, *Re: Is there an SOP, memo, instruction statement, policy, anything that says this is what we do? I need the documentation*, August 17, 2020.

Email from Clinical Applications Coordinator (CAC) to Chief Health Information Officer, *Business Rules*, September 17, 2020.

Email from CAC to Deputy Chief of Staff, *Agenda Item for MEC (Medical Executive Committee)*, March 9, 2021.

Email from Health Information Management, Medical Records Administration Specialist to staff, *Weekly Dashboard/Unsign – Un-cosign Notes Report*, May 25, 2021.

Fact Finding Report, *Allegations against Employee and Employee* September 25, 2020.

Fact Finding Report, *Allegations of Inappropriate Conduct (HIMS)*, April 21, 2021.

Health Information Management (HIM) Erroneous Document Corrections, March 2, 2017.

HIM Encounter Corrections and Monitoring, March 1, 2021.

HIM Erroneous Document Corrections, March 3, 2017.

HIM Practice Brief #4, *Defining the Health Record for Legal Purposes*, August 2018.

Medical Records Committee Meeting Minutes December 2020 – March 2021.

The Security Rule, Health and Human Services, <https://www.hhs.gov/hipaa/for-professionals/security/index.html>.

Department of Veterans Affairs (VA) Long Beach Medical Records Committee Charter, September 1, 2020.

VA Long Beach Retraction Flyer, January 11, 2021.

Veterans Health Administration (VHA) Directive 1400.01, Supervision of Physician, Dental, Optometry, Chiropractic, and Podiatry Residents, November 7, 2019.

VHA Directive 1400.09(1), Education of Physicians and Dentists, September 9, 2016; Amended December 26, 2018.

VHA Directive 1605.01, Privacy and Release of Information, August 31, 2016.

VHA Directive 1605.02, Minimum Necessary Standard for Access, Use, Disclosure, and Requests for Protected Health Information, April 4, 2019.

VHA Directive 1605.03(1), Privacy Compliance Assurance Program and Privacy/Freedom of Information Continuous Readiness Review and Remediation, September 19, 2019; Amended November 20, 2020.

VHA Directive 1907.01, VHA Health Information Management and Health Records, April 5, 2021.

Veterans Health Information Systems and Technology Architecture Authorization/Subscription Utility, Clinical Coordinator Manual, July 1997; Revised January 2016.

Attachment B

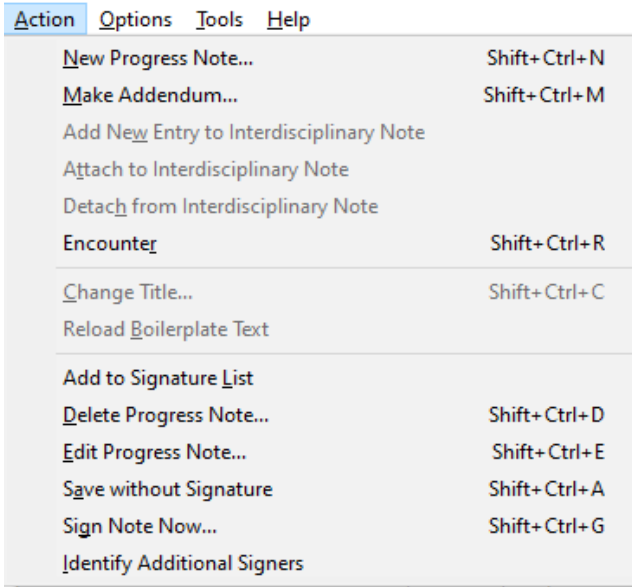


Per Veterans Health Administration (VHA) Handbook 1907.01, once a document is signed, it cannot be re-opened and edited without approval of the Privacy Officer and/or Health Information Management Staff Chief. An Addendum can be attached to the original document so that it can be retracted.

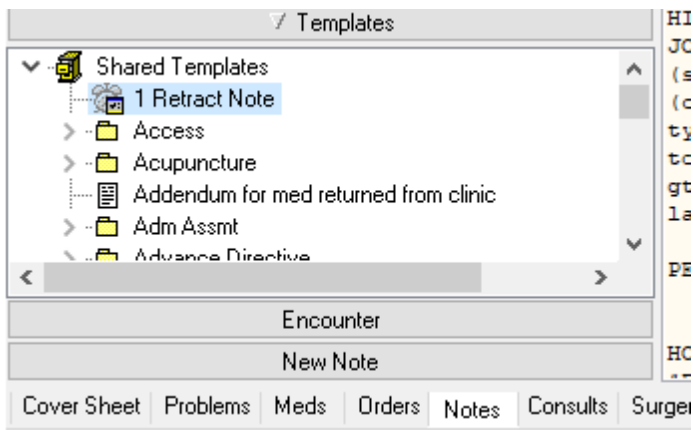
1. Select the progress note you want to retract.



2. Click on **“Action”** (on the upper-left hand corner). Click on **“Make Addendum...”** from the drop-down menu.



3. Open **“Templates”** drawer in the bottom-left corner of the CPRS window. Click on **“Shared Templates”** and double click on **“1 Retract Note.”**



4. Below is the Retraction Addendum Note template. Select one of the checkboxes for the reason for the retraction request and sign the addendum. Add the following three HIMS members as **Additional Signers**: Name [redacted], Name [redacted] and Name [redacted]. **If any assistance is needed in retracting notes, please contact** Name [redacted] at Telephone Number x [redacted]. No further action is needed at this point. HIMS will get a "view alert" in CPRS and the note will be retracted.

Reminder Dialog Template: 1 Retract Note

To be used ONLY in addendum attached to Progress Note that is to be RETRACTED (viz., removed from view).

Please retract this note because it was entered in error.
Reason REQUIRED:

- WRONG patient
- INCOMPLETE Note
- INACCURATE/INAPPROPRIATE/IRRELEVANT Information
- OTHER Reason: *

Please use the directions below to forward this to following HIMS staff:
Name [redacted]
Name [redacted]
Name [redacted]
as additional signers to complete the retraction.

==INSTRUCTIONS TO AUTHOR: HOW TO ADD THE ABOVE AS "Additional Signer"==
(To author: After signing this addendum, please make sure to forward it to above 3 HIMS staff members by:
1. Right click on the mouse to select "Identify Additional Signer"
2. Enters those 3 names then enter OK.)

Visit Info Finish Cancel

Updated 1/11/2021

Key to Investigative Team Members

- [REDACTED], Senior Medical Investigator
- [REDACTED], Senior Medical Investigator (detailed)
- [REDACTED], Clinical Program Manager
- [REDACTED], Health Systems Specialist
- [REDACTED] Employee/Labor Relations (ELR), Human Resources (HR)
Center for Excellence

Key to Interviewees

Veterans Integrated Service Network 22

- [REDACTED], ELR Supervisor
- [REDACTED], HR Specialist
- [REDACTED], Associate Business Implementation Manager

Long Beach

- [REDACTED], Healthcare System Director
- [REDACTED], Deputy Associate Director for Patient Care Services
- [REDACTED] M.D., Chief of Staff (CoS)
- [REDACTED], M.D., Associate CoS, Informatics
- [REDACTED], M.D., Chief, Primary Care
- [REDACTED], M.D., Chief, Resident Supervisor
- [REDACTED], M.D., Vice Chair, Medical Education
- [REDACTED], M.D., Chief, Surgery
- [REDACTED], Information System Security Officer
- [REDACTED], Chief, Health Information Management (HIM)
- [REDACTED], HIM Program Analyst
- [REDACTED], Coding Supervisor
- [REDACTED], Medical Records Administration Specialist
- [REDACTED], Privacy Officer
- [REDACTED], Acting Assistant Director/Compliance Officer
- [REDACTED], Compliance Officer
- [REDACTED], Supervisory Management Analyst
- [REDACTED], Program Analyst, CoS
- [REDACTED], Chief, Health Administrative Services (HAS)
- [REDACTED], HAS, Section Chief
- [REDACTED], Psychologist, Ph.D.
- [REDACTED], Occupational Therapist (Advanced Lymphedema Therapist)
- [REDACTED], Informatics Nurse Specialist
- [REDACTED], Integrated Ethics Program Officer
- [REDACTED], Chief, Quality, Safety and Value (QSV)
- [REDACTED], Deputy Chief, QSV
- [REDACTED], Risk Manager

- [REDACTED], Patient Safety Manager
- [REDACTED], Patient Advocate