



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
October 17, 2012

The Honorable Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036

Re: OSC File No. DI-12-1783

Dear Ms. Lerner:

This is in response to your letter dated June 20, 2012, regarding allegations reported by Ms. Christine Bethea, a Mental Health Nurse Practitioner (NP) at the Department of Veterans Affairs Medical Center (VAMC) in Charleston, South Carolina (Charleston VAMC). The whistleblower disclosed that clinical leadership at the Charleston VAMC assigned three NPs, who are not certified in mental health care, to positions within the Mental Health Service, where they perform mental health duties. The whistleblower alleges that this practice violates VA policy, state licensing requirements, law, rule or regulation, and compromises the care provided to VA mental health patients. You asked me to determine whether the information in the whistleblower's allegations disclosed a violation of law, rule or regulation, gross mismanagement, and a substantial and specific danger to public health and safety.

I asked the Under Secretary for Health to review this matter and conduct an investigation for purposes of providing your office with a report as required under 5 U.S.C. § 1213(c) and (d). The investigative team conducted a fact-finding investigation, which included interviews and documentation reviews, and produced the enclosed report. The report substantiates, in part, that VA policy and state law on specialty practice certifications were violated. The report also substantiates that the NPs were given a scope of practice beyond their level of formal education, training, and certification, which may have compromised patient care in the case of two NPs.

I have reviewed the report and action plan and concur with the findings, conclusions and corrective actions. The Veterans Health Administration will monitor the implementation of corrective actions. Thank you for the opportunity to respond to these issues.

Sincerely,

A handwritten signature in black ink, which appears to read "Eric K. Shinseki".

Eric K. Shinseki

Enclosure

OFFICE OF NURSING SERVICES

**Report to the
Office of Special Counsel
OSC File No. DI-12-1783**

**Department of Veterans Affairs
Ralph H. Johnson VA Medical Center
Charleston, South Carolina**



**Veterans Health Administration
Washington, DC**

Report Date: September 18, 2012

Any information in this report that is the subject of the Privacy Act of 1974 and/or the Health Insurance Portability and Accountability Act of 1996 may only be disclosed as authorized by those statutes. Any unauthorized disclosure of confidential information is subject to the criminal penalty provisions of those statutes.

Executive Summary

The Under Secretary for Health requested that the Office of Nursing Services (10A1) investigate a complaint lodged with the Office of Special Counsel by (b) (6) a Psychiatric-Mental Health Nurse Practitioner at the Ralph H. Johnson VA Medical Center (VAMC) in Charleston, South Carolina. (b) (6) has alleged that facility employees are engaging in conduct that may constitute a violation of law, rule, or regulation, gross mismanagement, and a substantial and specific danger to public health and safety related to the hiring and assignment of three Nurse Practitioners (NPs) in Mental Health Services who are not certified in Adult Psychiatric-Mental Health Nursing. The investigative team leader interviewed (b) (6). The entire team reviewed VA policy, Functional Statements and Scopes of Practice for the three NPs, (b) (6), (b) (6) and (b) (6).

Summary of Any Violation of Law, Rule or Regulation

The investigative team found evidence of a violation of the VA policy that established basic requirements for NP qualifications after March 17, 2009 (VA Handbook 5005/27) in the case of two NPs, (b) (6) and (b) (6).

Summary of Conclusions

At the time of selection and assignment to Mental Health Services, neither (b) (6) nor (b) (6) possessed an Advanced Practice Registered Nurse (APRN) Psychiatric-Mental Health Certification in accordance with VA Handbook 5005/27, Part II, Appendix G6, "Section B. Nurse Qualification Standard," dated March 17, 2009. The third NP, (b) (6) was hired prior to March 2009, and therefore exempt from the VA Handbook 5005/27, Nurse Practitioner qualification policy.

Summary of Recommendations

1. (b) (6) and (b) (6) should be immediately reassigned or their duties modified to roles with a scope of practice that aligns with their current qualifications. Such reassignment should not be considered an adverse action and should not impact their current pay and grade.
2. The facility must complete a clinical care review of a random sample of the patient care records for (b) (6) and (b) (6) dating back to their date of hire. A sample of at least 10 percent of the patients should be completed. If any clinical care issues are identified, the facility should expand the sample to a 100 percent review.
3. The NP Functional Statement must be revised to reflect the qualification standards and dimensions of practice applicable under VA Handbook 5005/27.
4. The facility Quality Manager must review all APRN Scopes of Practice for relevancy, accuracy, and to align with the requirements of VA Handbook 5005/27.

5. (b) (6) and (b) (6) should be encouraged to complete a formal education program that prepares them to become eligible to take the Adult Psychiatric-Mental Health Nursing Certification Examination

Report to the Office of Special Counsel

I. Summary of Allegations

The Under Secretary for Health requested that the Office of Nursing Services (ONS) investigate a complaint submitted with the Office of Special Counsel by (b) (6) RN, MSN, ARNP-BC, a Psychiatric-Mental Health Nurse Practitioner at the Ralph H. Johnson VA Medical Center (VAMC) in Charleston, South Carolina. (b) (6) has alleged that Medical Center Clinical Leadership assigned three Nurse Practitioners ((b) (6)) who are not certified in Adult Psychiatric-Mental Health Nursing, to perform psychiatric-mental health duties and responsibilities. (b) (6) further alleges that the assignments constitute a violation of VA policy, state licensing requirements, law, rule, or regulation; potentially compromises patient care, and constitutes gross mismanagement by the Charleston VAMC management.

II. Facility Profile

The Ralph H. Johnson VAMC is a primary, secondary, and tertiary care medical center that provides acute medical, surgical and psychiatric inpatient care, as well as primary and specialized outpatient services. The 117-bed facility currently operates 96 beds and a 28-bed nursing home unit. The facility serves greater than 53,000 Veterans in 22 counties along the South Carolina and Georgia coastline, in the main medical center or in one of six community-based outpatient clinics (CBOC) located in Myrtle Beach, South Carolina; Trident/North Charleston, South Carolina; Savannah, Georgia; Hinesville, Georgia; Beaufort, South Carolina; and Goose Creek, South Carolina. In addition, the facility supports the Veteran Readjustment Centers in North Charleston and Myrtle Beach, South Carolina and in Savannah, Georgia.

III. Conduct of the Investigation

The investigative team consisted of a team leader, the Clinical Executive of the Office of Nursing Services (10A1); and the following members: The Director, Credentialing and Privileging (10A4B2); the Assistant Deputy Under Secretary for Health for Clinical Operations (10NC); the Acting Deputy Chief, Patient Care Services (10P4); the Acting Director, Mental Health Operations (10NC5); and the ONS Liaison for Workforce Management and Consulting (10A2A).

As part of the investigation, the team leader interviewed (b) (6) by phone on July 16 and August 2, 2012, and the Mental Health Program Specialist, who retired in 2011, on August 7, 2012. In addition, the team leader communicated with one or more of the following individuals from the Ralph H. Johnson VAMC multiple times between July 17 and August 3, 2012, via conference calls, individual telephone calls, and e-mail.

1. (b) (6) / Acting Chief of Staff (COS)
2. (b) (6) / Associate Director for Patient Care Services (ADPCS)
3. (b) (6) / VAMC Quality Manager
4. (b) (6) / Mental Health Nurse Manager

5. (b) (6), Mental Health Program Specialist (retired)

IV. Summary of Evidence Obtained from the Investigation

The following documents were obtained and reviewed during the course of the investigation:

1. Verification of Certification Renewal for (b) (6) as a Family Nurse Practitioner (FNP) dated 06/2011;
2. Verification of Certification Renewal for (b) (6) as an Adult Nurse Practitioner (ANP) dated 08/2011;
3. Verification of Certification Renewal for (b) (6) as an FNP dated 06/2009;
4. VA Handbook 5005/27, Part II, Appendix G6, "Section B. Nurse Qualification Standard," (effective March 17, 2009);
5. VHA Directive 2008-049, "Establishing Medication Prescribing Authority for Advanced Practice Nurses" dated August 22, 2008.
6. South Carolina Code of Laws – Unannotated – Title 40 – Professions and Occupations, Chapter 33, Nurses, Article I. Nurse Practice Act, Section 40-33-34.
7. RN Georgia Code – Title 43 – Professions and Businesses, Chapter 26. Nurses, Article 1. Georgia Registered Professional Nurse Practice Act / Rules of Georgia Board of Nursing – Chapter 410-12- 01/03, Regulation of Advanced Practice Nursing.
8. Notice of Personnel Action (SF50) for (b) (6) dated 01/2009 indicating NP-C was hired prior to March 17, 2009.
9. One Functional Statement (FS) titled "Advanced Practice Nurse – Mental Health Service Line – Outpatient Setting" for all of the NPs;
10. A Scope of Practice Statement for (b) (6) that identifies her as an Family and Psychiatric Mental Health Nurse Practitioner;
11. A Scope of Practice Statement for (b) (6) that identifies her as an Adult and Psychiatric Mental Health Nurse Practitioner;
12. A Scope of Practice Statement for (b) (6) that identifies her as a Family Nurse Practitioner;
13. Continuing Education Certificates for (b) (6) totaling 14.74 contact hours for 2009 and 17 contact hours for 2010 in psychiatric-mental health and general adult acute healthcare topics; and
14. VetPro documentation that contains recommendations and comments for (b) (6) (b) (6) and (b) (6).

V. Allegation #1: VAMC facility employees are engaging in conduct that may constitute a violation of VA policy, state licensing requirements, law, rule, or regulation.

Findings:

(b) (6) and (b) (6) are certified as Family Practice Nurse Practitioners under the South Carolina State Board of Nursing. (b) (6) is certified as an Adult Nurse Practitioner under the Georgia State Board of Nursing.

According to VA Handbook 5005/27, Part II, Appendix G6, 2. (Section B. Nurse Qualifications)

a. (6) (a), Nurse Practitioners must be certified in the specialty to which they are being assigned:

(6) Nurse Practitioners and Clinical Nurse Specialists. On and after March 17, 2009, registered nurses appointed or otherwise moving into these assignments must meet and maintain the following additional qualifications:

(a) Nurse Practitioners. A nurse practitioner must be licensed or otherwise recognized as a nurse practitioner in a State, possess a master's degree from a program accredited by the NLNAC or CCNE, and maintain full and current certification as a nurse practitioner from the American Nurses Association or another nationally recognized certifying body. [The certification must be in the specialty to which the individual is being appointed or selected.]

To become certified in a specialty, an NP must meet the eligibility requirements for each certification examination. The American Nurses Credentialing Center (ANCC) Certification Program, a subsidiary of the American Nurses Association administers certification exams for FNPs, ANPs, and Adult Psychiatric-Mental Health NPs (PMHNPs). The ANCC Certification Program enables nurses to demonstrate specialty expertise and validate knowledge to employers and patients through targeted exams that incorporate nurse-practice standards. Eligibility Criteria for the FNP and ANP Certification Exams include the following elements:

- a. Hold a current, active RN license in a state or territory of the United States;
- b. Hold a master's, post-graduate, or doctorate degree from an adult or family nurse practitioner program accredited by the Collegiate Nursing Education (CCNE) or the National League for Nursing Accrediting Commission (NLNAC). A minimum of 500 faculty-supervised clinical hours must be included in the adult or family nurse practitioner program; must include three separate courses in:
 - 1) Advanced physical/health assessment
 - 2) Advanced pharmacology
 - 3) Advanced pathophysiology

AND content in:

- 1) Health promotion and disease prevention, and
- 2) Differential diagnosis and disease management.

Eligibility Criteria for the Adult PMHNP Certification Exam includes all of the above elements and clinical training in at least two psychotherapeutic treatment modalities.

(b) (6) and **(b) (6)** were selected and assigned to the Mental Health Service at the Charleston VAMC with a Scope of Practice that includes the following position specific duties:

- a. Perform Mental Health Examinations to include Mental Status Examinations.
- b. Perform psychiatric therapy and counseling, individual and group in a community setting with an interdisciplinary team.

- c. Perform Substance Abuse Treatment in collaboration with the Substance Abuse Treatment Team.

(b) (6) was selected and assigned to the Mental Health Service at the Charleston VAMC with a Scope of Practice that includes the following position specific duties:

- a. Perform Mental Health Examinations to include Mental Status Examinations.
- b. Perform assessments, individual and group therapy to Veterans with a wide range of psychiatric illnesses, to include PTSD and substance abuse disorders, in a clinic setting.

In keeping with the requirements of the South Carolina Nurse Practice Act, (b) (6) and (b) (6) Scope of Practice Agreement identifies the names of their supervising and alternate physicians, all of whom are psychiatric specialty physicians. Likewise, in keeping with the requirements of the Georgia Nurse Practice Act, (b) (6) Scope of Practice Agreement identifies the names of her supervising physician, alternate supervising physician, and MH specialty physician supervisor, all of who are psychiatric specialty physicians. However, all of the NPs were assigned duties that include the delivery of psychotherapeutic treatment modalities despite the lack of a psychiatric-mental health specialty certification.

The South Carolina Nurse Practice Act for (b) (6) and (b) (6) specifies that:

- a. Licensed NPs “performing delegated medical acts must do so under the general supervision of a licensed physician or dentist who must be readily available for consultation.”
- b. “An APRN is subject to the scope and standards of practice established by the board-approved credentialing organization representing the specialty area of practice and shall function within the scope of practice of this chapter and must not be in violation of Chapter 47.”
- c. One physician may supervise up to three NPs and at a practice site no greater than 45 miles without first requesting application to the Board of Nursing and Board of Medical Examiners to determine if adequate supervision exists, and
- d. “Delegated medical acts performed by a NP must be performed in accordance with an approved written protocol between the NP and physician.” This must include but not limited to the following:
 - 1) The date the protocol was developed and dates the protocol was reviewed and amended;
 - 2) A description of how consultation with the physician is provided and provision for backup consultation in the physician's absence;
 - 3) This information for delegated medical acts;
 - 4) The medical conditions for which therapies may be initiated, continued, or modified;
 - 5) The treatments that may be initiated, continued, or modified;
 - 6) The drug therapies that may be prescribed;
 - 7) Situations that require direct evaluation by or referral to the physician.
- e. APRNs are authorized to prescribe controlled substances with evidence of completion of 45 contact hours of education in pharmaco-therapeutics within 2 years of application. Fifteen hours of education in controlled substances as part of

the 45 contact hours are required if the APRN is initially applying to prescribe Schedule III through V controlled substances.

(b) (6) and **(b) (6)** both licensed in South Carolina have met the requirements for controlled substances prescriptive authority and have received a Drug Enforcement Agency (DEA) number.

The Georgia Nurse Practice Act for **(b) (6)** specifies that an APRN shall:
Adhere to a written nurse protocol which is a written document mutually agreed upon and signed by the nurse and licensed physician which specifies delegated medical acts delegated by the physician to the nurse and provides for immediate consultation with the delegating physician or a physician designated in the absence of the delegating physician; and

- a. Document preparation and performance specific to each medical act authorized by a written nurse protocol, including the ordering and administering of controlled substances, ordering and dispensing of dangerous drugs, and ordering. The nurse protocol agreement used by an advanced practice registered nurse which shall:
 - 1) Be in writing and signed by the advanced practice nurse and the delegating physician;
 - 2) Be dated, available upon request and specify parameters under which medical acts delegated by the physician may be performed;
 - 3) Include provisions for periodic review of patient records by the delegating physicians;
 - 4) Be reviewed, revised or updated annually;
 - 5) Include a provision for immediate consultation with the delegating physician or a physician designated in the absence of the delegating physician;
 - 6) Contain written provisions regarding the procedure for dispensing dangerous drugs which comply with O.C.G.A. §§ 43-34-26.1 if the dispensing of dangerous drugs is included as a delegated medical act in the nurse protocol agreement; and
 - 7) Contain written provisions regarding the procedure for ordering controlled substances which comply with paragraph (b)(1) of O.C.G.A. § 43-34-26.1, if the ordering of controlled substances is included as a delegated medical act in the nurse protocol.

Under title 38, United States Code, VA is authorized to prescribe all rules and regulations which are necessary and appropriate to carry out its statutory role as a provider of a national health care system for the Nation's Veterans. Under this authority, VA establishes the qualifications of its health care practitioners and regulates their professional conduct. While VA nurses must be licensed to practice their profession, VA determines their scope of practice, without regard to individual State Practice Acts, for clinical nursing practice other than the prescribing of controlled substances¹. Under the Federal Controlled Substances Act, 21 USC 801 et seq., and implementing regulations in 21 C.F.R. Part 1300, a health care practitioner may prescribe controlled substances only if his or her state license authorizes such prescribing. VA policy also provides that advance practice nurses, including nurse practitioners, may prescribe controlled

substances within VA only if they are authorized to do so by their state of licensure or registration and comply with the limitations and restrictions on that prescribing authority. A review of both the Georgia and the South Carolina Nurse Practice Acts indicate that (b) (6), (b) (6) and (b) (6) are authorized by their APRN license to prescribe controlled substances under their collaborative agreement with their physician supervisor.

¹ Where State licensure and scope of practice rules conflict with Federal law, VA rules or regulations, VA employees must comply with VA rules or policy, even if their State Practice Acts are more restrictive.

Conclusions:

The team found evidence of violation of VA Handbook 5005/27, Part II, Appendix G6, specifically relating to the policy on the basic requirements for Nurse Practitioner qualifications and the requirement that certification must be in the specialty to which the individual is being appointed in the case of (b) (6) and (b) (6). Neither (b) (6) nor (b) (6) met the current NP qualifications for Psychiatric-Mental Health Nursing at the time of hire. (b) (6) was hired as an NP prior to March 17, 2009, and is therefore exempt from the VA Handbook 5005/27, Nurse Practitioner qualification policy.

There was no violation found of either the South Carolina or the Georgia State Board of Nursing Practice Acts with regard to (b) (6), (b) (6) and (b) (6) collaborative practice agreement and requirements for physician supervision.

Section 40-33-34(5) of the South Carolina Nurse Practice Act provides that “[a]n APRN is subject to the scope and standards of practice established by the board-approved credentialing organization representing the specialty area of practice....” Although South Carolina’s requirement for certification in the specialty area of practice is consistent with VA’s requirement in the NP qualification standard, VA also exempts NPs, such as (b) (6) who were hired prior to March 17, 2009. Further, state scope and practice standards do not apply to VA NPs to the extent they are inconsistent with those established by VA. Both (b) (6) and (b) (6) are licensed by South Carolina. The specialty certification requirement in section 40-33-34(5) was violated when (b) (6) was assigned to Mental Health Services without Psychiatric-Mental Health Nursing certification. However, there was no violation of law with respect to (b) (6), since her assignment to Mental Health Services is permitted under VA rules prior to March 2009.

Recommendations:

1. (b) (6) and (b) (6) should be immediately reassigned or their duties modified to roles with a scope of practice that aligns with their current qualifications. Such reassignment should not be considered an adverse action and should not impact their current pay and grade.
2. (b) (6) and (b) (6) should be encouraged to complete a formal education program that prepares them to become eligible to take the Adult Psychiatric-Mental Health Nursing Certification Examination.

VI. Allegation #2: There has been mismanagement by the Charleston VAMC management team with potential compromise to patient care as the result of the assignment of Nurse

Practitioners (NP) in Mental Health services who are not certified in Adult Psychiatric-Mental Health Nursing.

Findings:

The facility used a Functional Statement (FS) template intended to be customized for each new hire. At the time of the selection of (b) (6) and (b) (6), the FS was not updated to reflect the March 17, 2009, requirement for an NP incumbent to hold a certification in the specialty to which the individual is being appointed or selected. (b) (6) was hired as an NP prior to March 17, 2009, and therefore exempt from the VA Handbook 5005/27, Part II, Appendix G6, Nurse Practitioner qualification policy.

(b) (6) was the Chief of Mental Health Services at the Charleston VAMC when (b) (6), (b) (6) and (b) (6) were hired between 2009 and 2010. (b) (6) states that he based his selection of the three applicants on their previous mental health experience and references; each applicant had multiple years of mental health experience.

At the time of (b) (6) selection, (b) (6) raised concerns regarding the lack of proper certification to (b) (6), a Mental Health Program Specialist (MHPS) who indicated she would look into the issue. (b) (6) retired in 2011 but consented to be interviewed on August 7, 2012. (b) (6) recalls being asked to be a last minute substitute member of the interview panel for (b) (6). She recalls asking (b) (6) one interview question but doesn't recall the question or that she provided a composite score for (b) (6). Additionally, she doesn't recall having a conversation with (b) (6), the interview team members or anyone outside the interview team about (b) (6) qualifications.

(b) (6) also recalled discussing her concerns regarding (b) (6) qualifications with (b) (6), the Mental Health Nurse Manager (NM). She recalls specifically asking the (b) (6) about (b) (6) mental health certification. The team leader interviewed the NM on August 2, 2012. During the interview (b) (6) could only recall that (b) (6) expressed a concern about (b) (6) having the appropriate credentials. At the time, (b) (6) believed that (b) (6) was concerned about (b) (6) general credentials and she responded that she would check to see that the credentialing process was completed. (b) (6) did verify that (b) (6) was credentialed per facility policy, but she did not relay that back to (b) (6) stating she wanted to safeguard (b) (6) privacy. Unfortunately, (b) (6) did not understand that (b) (6) was referring to a Psychiatric-Mental Health NP Certification and not a general Advanced Practice RN certification.

(b) (6) alleged that (b) (6) and (b) (6) have "demonstrated a lack of training, knowledge, and experience in evaluation and treating patients with psychiatric and mental health issues." (b) (6) described a case during weekly telephone rounds where (b) (6) was on the phone speaking from the CBOC in Savannah. (b) (6) recommended that a patient diagnosed with bipolar disorder should undergo a CAT scan when the appropriate course of action should have been to review and modify the patient's medication levels. She noted that

(b) (6) recommendation reflected her training in a medical, rather than mental health, specialty. (b) (6) does not remember the exact date nor can she recall the patient's identifying information to enable further review.

(b) (6) also alleged that (b) (6) expressed anxiety during rounds about being assigned to evaluate a mental health patient who had arrived in the Urgent Care Unit. In relation to the pharmaceutical management of this patient, (b) (6) overheard (b) (6) ask of the attending physician two times "so what do we do?" When she didn't receive a response upon the conclusion of rounds, (b) (6) asked a social worker in the group "what did he say about that medication?" (b) (6) made a record of the date and the patient's name and Social Security Number. As a result, (b) (6) was able to review the patient record and documentation and she noted that (b) (6) patient order entry was adjusted correctly per the physician's order.

(b) (6) VAMC Quality Manager was asked to describe how new VHA Directives and Handbooks pertinent to quality management are handled. (b) (6) stated that new VHA Directives and Handbooks are received and reviewed by Quality Management staff to ensure national requirements are consistent with local policies. They are then sent to the appropriate Service Chiefs for review with the expectation that services will review the information and determine if their associated policies need to be updated. Quality Management began tracking this communication formally beginning with fiscal year 2012 and now follows up with services to ensure action has been taken if needed. When facility policies are updated or revised every three years, the responsible office is also required to review all current publications and to reference those in the policy. This reference is confirmed by Quality Management prior to publication.

Quality Management also reviews Office of the Inspector General (OIG) audit reports, and then utilizes those OIG checklists to perform similar reviews at the facility. (b) (6) does not have the manpower to perform facility audits for all new Handbooks and Directives.

To ensure the quality of staff such as (b) (6) who is exempted or grandfathered from the 2009 NP specialty certification qualification, her clinical performance is scrutinized using the same credentialing and privileging process utilized for every Charleston VAMC provider that delivers care via a set of privileges or a collaborative scope of practice. The VAMC Quality Manager, (b) (6) reviews a multitude of documents that includes Professional Standards Board (PSB) reviews of credentials, privileges or scope of practice; VetPro information; references; and data from organizational and service level ongoing professional practice evaluations. All of the foregoing information is used to review and validate the quality of (b) (6) clinical practice performance and ensure patient safety. In addition, (b) (6) states that (b) (6) works closely and collaboratively with her MH specialty physician supervisor and at no time is she without supervision.

VetPro is an application used by all VHA facilities for the credentialing of all VHA licensed, registered and/or certified health care providers. VetPro is VHA's electronic credentials data bank implemented in 2001, for all privileged providers and expanded for use in credentialing all

other licensed, registered, and/or certified health care providers (e.g., nurses, social workers, technologists, etc.) in 2005. APRNs have been credentialed through VetPro since 2004.

Primary source verification is obtained and documented in VetPro for each entry of education, training, licensure, certification, references, personal history, and work experience. All credentialed providers are also asked to answer seventeen supplemental questions related to whether or not they have had an adverse action taken against a license, registration, membership with a health care organization, clinical privileges, board certifications, etc. The supplemental questions also query involvement in a malpractice or tort claim, felony convictions, or any discharges from clinical positions. Answers to these questions are also verified with the primary source (e.g., the state licensure board, court documents, etc.).

VetPro contains verified information related to previous work history, training, and certifications that may be relative to competency in a specific specialty. Peer references and their comments (if any) are available within VetPro as well. At the time of the provider's VHA appointment and subsequent reappointment, the respective service chief has an opportunity to enter a free text comment related to their review of the provider's credentials and their recommendation for the appointment/ reappointment of the provider. Service Chiefs are encouraged to indicate what was assessed to determine the provider's competency and support of the privileges and appointment requested.

At the Charleston VAMC, the Service Chief and physician supervisors review the clinical practice of their service staff providers as part of their OPPE Evaluation at least every 6 months. At the time of re-privileging (every 2 years), PSB reviews the credentials, privileges or scope of practice, VetPro information, references, and data from organizational and service level ongoing professional practice evaluations for every provider that delivers care via a set of clinical privileges or a collaborative scope of practice. The PSB ensures that privileges and scopes of practice are aligned with qualifications and competencies and makes recommendations regarding renewal of privileges or scope of practice. The recommendations are forwarded to the Medical Executive Committee who in turn reviews the recommendations and forwards their concurrence or non-concurrence to the facility Director. The facility Director reviews the recommendations of the Medical Executive Committee and approves or disapproves the recommendations for privilege and scope of practice renewal.

Patient complaints are not recorded in Vet Pro. They are instead entered into the patient advocate tracking file. Co-worker complaints would most likely be reported to the Service Chief. (b) (6) receives a summary of patient complaints every 2 years in conjunction with the privilege and scope of practice renewal cycle. She does not routinely have access to these types of complaints unless an impact on clinical practice is implied or suggested. The Quality Manager checked with the Customer Service Manager and found there were zero complaints related to the delivery of care by the three NPs. A review of the VetPro documentation for the three NPs also revealed no deficiencies, negative comments or observations.

(b) (6) states that ten patient charts of every MH provider (including the NPs) are reviewed twice a year. The charts are reviewed by MH specialty peer providers who assess the appropriateness of the patient diagnosis and treatment plan of care including pharmaceutical

treatment. The record review results are then forwarded to the Chief of the Service line for additional review and comment on the appropriateness of care.

Conclusions:

The investigative team found evidence to substantiate that facility management hired and assigned an FNP (b) (6) and an ANP (b) (6) into Mental Health positions for which they were not qualified as evidenced by the lack of certification as Psychiatric-Mental Health Nurse Practitioner.

(b) (6) and (b) (6) were given a scope of practice beyond their level of formal education, training, and certification that may have resulted in less than optimal patient outcomes. However, there was no Vet Pro, Ongoing Professional Practice Evaluation or other clinical review evidence found to substantiate that patient care was negatively impacted for these NPs. All NPs work as part of teams led by physicians. They have daily huddles and have access to their lead physician (or designee if on leave) during their tours of duty. These teams are usually on 2-5 members and may include other care providers that care for the cohort of patients; thereby, providing direct oversight by a physician to monitor the quality of care delivered to our Veterans.

Recommendations:

1. The Functional Statement should be revised to reflect the qualification standards and dimensions of practice applicable to NPs under VA Handbook 5005/27.
2. The facility must complete a clinical care review of a random sample of the patient care records for (b) (6) and (b) (6) dating back to their date of hire. A sample of at least 10 percent of the patients should be completed. If any clinical care issues are identified, the facility should consider expanding the sample up to a 100 percent review.
3. The facility Quality Manager, (b) (6) must review all APRN Scopes of Practice for relevancy, accuracy, and appropriate alignment with current qualifications per VA Handbook 5005/27.

Violations of Law, Rule or Regulation:

The investigation found that VA policy requiring that NPs be certified in the area of specialty practice was violated when facility management assigned (b) (6) and (b) (6), who were not certified in mental health, to Mental Health Service. In the case of (b) (6) a similar state requirement also was violated. (b) (6) was hired before VA required specialty practice certification and is exempt from the requirement. The investigation also found that facility management gave (b) (6) and (b) (6) a scope of practice beyond their level of formal education, training and certification, which may have resulted in less than optimal patient outcomes. However, the investigation found no evidence to substantiate that patient care was negatively impacted.

Actions Taken or Planned:

1. VAMC Management is now aware of the correct APRN professional qualifications related to VA Handbook 5005/27 and is conducting a review of all APRN Scopes of Practice to ensure alignment with VA Policy.
2. VAMC Management has eliminated those elements from the Scopes of Practice of (b) (6) and (b) (6) that are inappropriate for an NP without a MH Certification.
3. VAMC Management has stated their intention to begin a 100 percent review of (b) (6) and (b) (6) patient records dating back to their date of hire.
4. The facility Functional Statement for NPs has been revised to reflect the qualification standards and dimensions of practice applicable to NPs under VA Handbook 5005/27.

Documents Reviewed

1. VA Handbook 5005/27, Part II, Appendix G6, "Section B. Nurse Qualification Standard," dated March 17, 2009.
http://vaww1.va.gov/vapubs/viewPublication.asp?Pub_ID=465&FTType=2
2. VHA Directive 2008-049, Establishing Medication Prescribing Authority for Advanced Practice Nurses dated August 22, 2008.
http://vaww1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1746
3. The Functional Statement (FS) titled "Advanced Practice Nurse – Mental Health Service Line – Outpatient Setting."

MH Outpatient NP
Nurse III functional st
4. Scope of Practice Statements for (b) (6)
5. Verification of Certification Renewals for (b) (6)
6. VetPro documentation for (b) (6)
7. Continuing Education Certificates for (b) (6)
8. Notice of Personnel Action (SF50) for (b) (6) dated 01/2009.