

REBUTTAL PACKAGE
OF VA/IG REPORT
ON
STCBVHCS
BY
RICHARD KRUGMAN, MD

REBUTTAL TO DEPARTMENT OF VETERANS AFFAIRS
INSPECTOR GENERAL'S REPORT BY RICHARD KRUGMAN, MD

In his complaint to the Office of Special Counsel, Dr. Richard Krugman made allegations of fraud waste and abuse regarding the planning, construction, staffing and operation of a new Ambulatory Care Center by the Department of Veteran's Affairs in Harlingen Texas.

The OSC requested an investigation into the allegations and the VA directed an IG investigation which was conducted. The report concluded that most of the allegations made were not substantiate and the few problems they acknowledged were minimized. In this response, Dr. Krugman will illustrate how the investigation ignored the substance of the allegations specifically that fraud waste and abuse occurred, by concluding that all is now well in Harlingen and dismissing the seriousness of what transpired there.

A brief background is appropriate at this point. The veterans of southern Texas have had to relay on the VA hospital in San Antonio for major medical problems. San Antonio is approximately 260 miles away. Congressional interest resulted in the VA agreeing to establish an Ambulatory Care Center in Harlingen Texas (a central location) to resolve minor surgical matters that required in and out "day" surgery.

Dr. Krugman had a long history of establishing and administering such facilities and was hired for that purpose. When he arrived he discovered, identified and reported design defects in the facility which ultimately caused him to be removed from his employment. The design defects and management errors that he identified were investigated by the VA IG. Their report finds essentially that the design issues are correct "at this time", without acknowledging either that errors were initially made and corrected, or the cost of correcting them by retrofitting. The personal statement made by Dr. Krugman submitted herewith goes beyond this "everything is up to date in Harlingen Texas", "we have it covered, no problem" response from the IG and provides his enlightening assessment of the flaws and errors in the report as well as matters that the IG overlooked or ignored.

Because Dr. Krugman's response is lengthy, this summary review of the response is provided as a roadmap.

The IG report covers fourteen separate complaints they identified for investigation which they group into five categories. The allegations investigated are:

Inadequate Facilities at Harlingen HCC

Allegation #1:

The HCC surgical unit lacked a HVAC system adequate to control humidity in the operating theatre.

Allegation #2:

The HCC lacked back-up generators and power outages were frequent. **Allegation #3:**

The facility was poorly designed in that the distance between the operating rooms and recovery rooms was too great, and the 20 separate recovery room bays each had four walls.

Allegation #4:

The HCC remains unable to support surgery or other procedures requiring a sterile environment because not all of the system changes have been implemented, including establishing a sterile operating theatre.

Surgical Staff Hired but Unable to Practice Allegation #5:

Physician Specialists were hired by VATVCBHCS significantly in advance of the HCC's readiness for opening.

Allegation #6:

VATVCBHCS leadership hired physicians in certain specialties, but in order to enhance their salaries or avoid licensing or certification problems, they were given titles that suggested they were performing other functions.

Allegation #7:

It is alleged that because the facility was not able to support surgical specialties, the surgeons hired at the HCC were unable to perform surgery and/or were likely to lose surgical skills.

Patient Care Concerns

Allegation #8

It is alleged that in January or February 2011, the COS and Director at VATVCBHCS ordered staff to cut by 10 percent the number of specialty referrals of patients to private providers on a fee basis, for care not available at the facility. It is further alleged that requiring staff to cut specialty referrals by 10 percent was arbitrary and ultimately harmful to patients who clearly needed medical care from the outside providers because it was not available within VATVCBHCS.

Allegation #9:

It is alleged that VATVCBHCS lacked an adequate care management system to coordinate care between VA providers and fee-basis providers. The allegation further indicates that most patients referred for fee-basis care were never seen as the letter notifying the Veteran of approval of care was never received.

Allegation #10:

It is alleged that Veterans had difficulty locating private physicians willing to accept the VA fee referral.

Allegation #11:

VATVCBHCS stopped sending patients for colonoscopies in the summer of 2010 because they could not afford non-VA providers and elected to use the Fecal Occult Blood Test (FOBT) instead of colonoscopies.

Discontinuation of Patient Records in Advance of the Joint Commission Visit Allegation #12:

The COS directed his administrative assistant to alter the records of approximately 2,000 VATVCBHCS patients, in order to conceal a backlog of patients who had not been seen for follow-up treatments. It is also alleged that the discontinuation of these records was to avoid a negative finding by The Joint Commission.

Allegation #13:

It is alleged that records were lost as a result of the process identified in allegation #12.

Outstanding VA Debt to Private Providers Compromises Patient Care Allegation #14:

Local private providers in the Texas Valley/Coastal Bend region are owed millions of dollars for providing fee-basis referrals under contracts with VATVCBHCS and that this debt compromises patient care.

Of these 14, numbers 1-4, and 9-13 were determined to not be substantiated by the report, allegations 5-8 and 14 were clearly substantiated. It should be noted that although 9 was not substantiated, policy changes were initiated to avoid the problem raised by Dr. Krugman and 10 was verified by the report, but was considered to not have been substantiated.

Allegations 1-4 dealt with the condition of this new facility, scheduled to be opened in January 2011 but Dr. Krugman submits that as of June 12, 2012 not one open surgical case has been performed in the general operating rooms. The issue of what if any surgical activities are occurring now and when they began is a critical issue to the reviewer of this matter, and the answer is not adequately reported.

The report addresses the current condition of the mechanical issues raised by Dr. Krugman. It does not confirm or deny that the defects identified actually existed and were later corrected as Dr. Krugman insists. Also as of June 12, 2012 it is submitted that the third floor is still not able to control the humidity, moisture and temperature within the building because of the extreme temperatures outside. A walk through the building in August will demonstrate moisture and sweating of the windows and walls. The report further fails to state the cost of these corrections, presumed to be in the hundreds of thousands of dollars. Dr. Krugman provides proof that these deficiencies existed at exhibits C-1 through C-10 of his rebuttal document. The report stating that these conditions are not a problem at this time ignored the fraud waste and abuse issue inherent in a new building having to be remodeled and could be evidence of a cover-up in this report. It is suggested that this issue requires further investigation prior to the "not substantiated" being accepted.

Allegation 5 deals with surgeons that were hired and either never used in their specialties or hired much too early before the building was ready. The report acknowledges that many of these "surgeons" were not intended to perform "surgery" in an ambulatory "surgical" center. The report confirms that a cardiothoracic surgeon was hired for \$3000, 000 per year, who was

not intended to perform his specialty. The report acknowledges that the VA spent over \$1,500,000 for these surgeons who did not perform the duties for which they were hired. Some of them "helped out" in other places. One quit and one was apparently removed. It is submitted that this is more than a partial substantiation and in fact this situation could be used as a dictionary example of waste in the government. However, the report makes little more than passing condemnation of this colossal waste of money. We would expect proverbial "heads to roll" for such a dereliction. It is clear from the report that these physicians were hired without proper planning for their implementation or even for when their services would actually be required. It is suggested that further investigation of exactly what quantum of services the VA received for this \$1,500,000 would be a critical part of determining the accuracy and impact of Dr. Krugman's allegations. Dr. Krugman further rebuts the findings by the report and provides documentation at exhibits C-11 through C-20 of his rebuttal package.

Allegation 6 deals with the manner in which Dr. Krugman was recruited, hired and utilized. He was clearly recruited and hired for his expertise in running these outpatient surgical centers. His Form 50 confirms that fact. Once allegations of negligence in the construction and utilization for the facility were raised he became a pariah and was forced into a position for which he had no experience or training. The reviewer is asked here if he or she would want an anesthesiologist to be the approving official for his referral to outside providers for medical care. That is what was contemplated with Dr. Krugman. Then he was summarily removed for non-performance of duties that were foreign to him. The report does not go into the basic question presented by these facts: why was Dr. Krugman not utilized to correct the problems that existed at Harlingen? That is what he was hired for, but not utilized. Again, this presents a clear example of waste. This matter is further discussed in detail in Dr. Krugman's rebuttal and documented at exhibits B-5, B-7 through B-9, B12 through B-18, B-19, and B20 through B24 of his rebuttal package.

In Allegation 7 regarding physicians not maintaining their skills while the facility was not functional, the report appears to agree that problems did or do exist.

Allegations 8 through 11 dealing with patient care concerns were discussed and the VA determination of why patient care was not compromised despite some of the allegations appearing to be verified while not substantiated are addressed by Dr. Krugman and documented at exhibits A-2 through A-11, A-14 through A-18, B-14, B-19, B-25 through B-32, C6 through C-21 of his rebuttal package.

The report discussion of allegations 12 and 13 dealing with patient records are accepted for what is stated as agency policy, however the issue of propriety remains and documented at exhibits A-47, A-48.

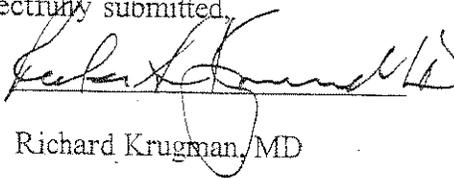
Allegation 14 regarding the outstanding debt attempts to obfuscate the problem raised. As Dr. Krugman establishes in his rebuttal and supporting documentation, at exhibits A-13

through A-18, A-28 through A-32, A-33, A-34, A-39 through A-42, A-43 through A-46 of his rebuttal package, the indebtedness remains outstanding. It impacts the hospitals and individuals who remain unpaid for services performed. It casts a negative light on the VA and the federal government in general. It is an abuse of the process the VA established for ensuring treatment for its patients, which the VA could not itself provide, partially due to the facility not being functional.

It is suggested that the investigation does establish wide spread waste and abuse at the Harlingen VA medical facility. However, all of the facts have not yet been produced for review. Remaining issues which require further research are, what did retrofits for the facility cost and when were they completed? When did the facility fully open for the use originally intended? What did this \$1,500,000 actually do for the VA while being paid these amounts the report believes reasonable. Why has the VA not yet been able to pay the belated payments to the local providers?

In Summary, this report acknowledges many of the allegations made by Dr. Krugman, in passing, as problems resolved rather than as waste and abuse as was their true nature. Others were not thoroughly investigated or more likely, not completely reported. The documentation presented in the following rebuttal package of Dr. Krugman, with which this summary document is incorporated by reference, justifies a deeper look into the allegations made and their true extent and impact on the veterans of south Texas. We submit that there was indeed massive fraud waste and abuse at Harlingen Texas which should be recognized and acknowledged by the VA.

This rebuttal package is respectfully submitted.



Richard Krugman, MD

_____/S/_____

Anthony W. Walluk

Counsel to Dr. Krugman

Item A

**Richard Krugman, M.D., the Whistle Blower
Patient Care Jeopardized**

**Item A Richard Krugman, M.D., the Whistle Blower
Patient Care Jeopardized**

My name is Richard S. Krugman, MD and I am a Whistle Blower. As such, I should have been offered whistleblower protection regarding my concerns of fraud, waste and abuse; but more importantly, my disclosures regarding the inadequate and poor veteran patient care perpetrated by the Texas Valley Coastal Bend Health Care System (TVCBHCS) and the administration of VISN 17 including its Director. This is a direct causal effect of poor administration, inadequate oversight of a new Ambulatory Surgical Center and the promotion to senior management without the appropriate education or experience needed in a start up venture as TVCBHCS.

This is a clear example of the term Peter's Principle at work, here in South Texas. Peter's Principle states that in a hierarchy every employee tends to rise to the level of their own incompetency. Meaning, that employees tend to be promoted until they reach a position at which they cannot work competently.

The Veterans Administration has consistently and with great consternation held the opinion that nothing is wrong, everything that is correctable has been corrected and Dr. Krugman is a crank interfering with the big picture. What is the big picture? In reality the veteran is the most important person in this equation. The veteran population deserves the best medical healthcare available in this country. We are all living in our homes and living under a democratic government because these individuals gave up part of their lives and bodies to protect our rights.

If the truth is the most important aspect of this investigation, then everything they reviewed and everyone they queried should have been deleted from the subject matter. Review the paper trail, e-mails and deletion of patient records which were supplied to the review board. Don't question the people who have a vested interest in derailing this investigation. Interview the patients who have been hurt, interview the physicians who are ashamed of what happens every day, and interview the elected officials who have been receiving complaints from their constituents for years. This makes the investigation of Fast and Furious look like a walk in the park. This is affecting greater than 50,000 lives. [Exhibit A-1, A-2]

I reviewed several of the past OSC public files. One in particular criticizes the entire system of investigations – VA, OSC, everyone – for not leading to real protection for whistleblowers, or accountability for the VA officials. Here is some of that text from that whistleblower's letters to the OSC file:

November 30, 2009

Re: OSC File No DI-08-2379

"I am shocked and concerned about the lack of professionalism in the process of this so-called one-sided investigation. The two investigations I am involved in have led me to believe that this system of protecting federal whistleblowers is a sham and is not following the letter of the law. What kind of country do we have where there are laws enacted to protect federal employees to

stand up for what is right, against wrongdoing, and those laws are ignored year after year and federal management is supported in crushing the federal employee?

I realize this letter is meant to be a response to the Disclosure Report of Findings, but I find it necessary to speak to both cases, as they are interrelated and cannot be considered in isolation of each other. So therefore I will comment on some specifics of both cases to demonstrate the tragedy and failure of the system, causing harm to our nations' veterans and the staff that serve them with dignity."

Enclosed is the broad statement of "problems" Regarding patient Care Concerns. {Exhibits A-3, A-4}. I also must acknowledge all the help given to me from Congressman's Ruben Hinojosa's office during this process. [Exhibits A-5 through A-11].

It is important to note that I relocated to McAllen, Texas and still reside in the community. As such, unlike many who have come down to offer their opinion on what is happening here, I talk to the Health Care Providers on a daily basis. I am still in contact with many of the employees of the TVCBHCS. Rather than getting the "official" story in a one-hour meeting, I am privy to the on-going lack of leadership and treatment for the Valley Veterans. I am told of the threats and possible retaliation by administration if any employee, being a physician, allied health or administration deviates even slightly from the "official" story. Being a strong voice in and of the community I have continual access to the private health care system's executive branch (STHS and Valley Baptist Hospital). The information that I have given to the Office of Special Counsel is not hearsay, but rather paper documentation and if necessary we can produce sworn statements describing the blatant lying and threats (retaliation) to the individuals involved.

During my tenure at TVCBHCS I was both mentally and physically abused by the senior management of the health system, which was protected by the VISN Director and his Chief Medical Officer because of their personal interests. As a physician who went through the rigorous training of both Anesthesiology and Surgery at Ivy League and inner-city hospitals, I do not use these terms lightly. My training was to make me stronger, more knowledgeable and the most compassionate physician that academia could produce. [Exhibit A-12]

Patient care has been jeopardized by TVCBHCS for failing to honor or pay their different medical vendors. E-mail documentation from Douglas Matney (South Texas Health System) states the amount owed to his healthcare system is greater \$10,000,000.00 [exhibit A-13] and from Salomon Torres (Congressman's Hinojosa's office) Valley Baptist is owed \$8,000,000.00 plus [exhibit A-13]. This does not even include the private physicians who haven't been paid in 3yrs. An example, which proves that VACO has misled or hidden information from congress, can be found in a recent article from the **Caller.com a Corpus Christie, Texas paper dated March 18, 2012:**

"It states that disabled veteran Roy Stamper, spends his days in front of a television, hobbling around his apartment on a cane and managing the constant sharp pain and numbness in his artificial hips with daily morphine pills".

“For months, Stamper tried to find a local orthopedic surgeon to take a look at his hips and diagnose the pain, but over and over again, he found that doctors simply refuse to accept a voucher that promised reimbursement for care from the U.S. Department of Veteran Affairs”. “Some local doctors have stopped seeing veterans because the VA has taken too long to reimburse them for the treatment”.

“The VA now is working to resolve the backlog of claims after **U.S. Rep Blake Farenthold, R-Corpus Christie**, complained **that slow payments put local veterans at risk of not getting the care they need**”. [Exhibit A- 14 through A-18]

The Veterans Administration is stating that these medical providers have been paid; but, in actuality, that is far from true. To date most balances are largely intact although some payments have been made, they are merely a fraction of the monies owed. Unfortunately, the longer this matter goes unresolved, many private healthcare fee basis providers are presently refusing to see any additional Veterans.

As I have said in multiple e-mails, TVCBHCS lacks an adequate care management system to coordinate care between VA providers and Fee Basis Providers; majority of patients receiving Fee Basis referrals did not receive an authorization letter, did not understand the letter or could not find a doctor willing to see them. TVCBHCS has not established a system to ensure timeliness of care for veterans requiring Interfacility consults and is not meeting its contractual obligations for timely referrals and communication with Fee Basis providers. How could they? They built a structure that was incorrectly built, incorrectly staffed and with inappropriate leadership. The amount of money that went into the project initially, the amount of money spent on redesigns and retrofitting to name just a few cost over-rides, has affected their ability to afford proper and appropriate patient care. I believe the expression taking the money from the right pocket to put into the left is too accurate.

In the VACO report “Outstanding VA Debt to Private Providers Compromises Patient Care”. (Page 3) The allegation that this debt has resulted in patient care being compromised is not substantiated. Reviews of medical records, documents, and interviews with multiple providers, leadership and administrative personnel responsible for the fee program did not reveal any instance where these payment issues resulted in patient care being compromised, any harm to any patient or in substantial or specific danger to public health or safety.

False. Not-true, incorrect, there are other words we can use, but the meaning gets across. Not one patient’s care was compromised? Please, in the above paragraph in the local newspaper, there are countless examples of this type of situation and worse. After speaking with the two largest private healthcare systems, neighboring TVCBHCS, they are revealing debts totaling well over \$16,000,000 and are now contemplating legal action. This does not even account for the private practice physicians who have not been reimbursed in more than 3 years and are refusing to see Veteran patients. Once again, for every medical provider that is forced to say everything is okay, having no problems referring out, I can produce more medical providers that will say they are frustrated with the current situation and that they are beginning to resent being threatened with retaliation if they do not follow the party line.

Once again, I believe it is important to underscore my background at this juncture. I began my medical training with a Pediatric Residency at the Mount Sinai School of Medicine, New York, N.Y. This was followed by a Residency in Anesthesiology and a Fellowship in Cardiothoracic Anesthesiology at Hahnemann University Hospital, Philadelphia, Pennsylvania. I continued my post-graduate training with a second Fellowship in Acute and Chronic Pain Management at Duke University Medical Center, Durham, North Carolina.

In the early 1990's as a Physician/CEO/Owner, I developed the largest private anesthesia group on the East Coast. By expanding into other disciplines (Pediatrics, Gastroenterology, Internal Medicine, Family Practice and Chiropractic Medicine) the medical group became one of the largest private medical practices in the country. With greater than 800 full and parttime professionals we were based out of Florida. With a strategic plan in place and through fiscal responsibility we were able to develop similar practices in 14 states. While building and strengthening the framework of the medical practice, we began building and acquiring Multi-specialty Ambulatory Surgical Centers. Our Mission Statement was to provide medical services in the most efficient, safe and effective environment within a framework of medical efficacy. In the process, we developed the expertise in Ambulatory Surgical Medicine by taking thirty-one Surgical Centers from their inception through the process of obtaining a Certificate Need (CON) to full licensure by The Joint Commission (JCAHO).

By 2006, the Medical Groups were sold to the leading Healthcare Providers in their respective regional areas and the Surgical Centers became an integral part of the Hospital system networks and physician practices in their various specialties. At this point, I believed I was retired (or so I thought).

After retirement I started to examine where I could best use the considerable knowledge and experience to help transform medicine to the new realities of the current Era. My answer came directly from the President. First, during the 2008 Presidential election period when, then Senator Barack Obama said, "Yes We Can" or "Si Se Puede." It struck a very strong cord with my wife, Tamara, who was raised in Washington, D.C., by Kennedy Democrats. Then when President Obama gave his clarion call to service, I truly saw the path for what I like to call "The Third Act".

I would leave the private sector behind and look for a position in the Government where my expertise could be utilized. This in turn, led me to the Veteran's Administration where I felt my contribution could assist the VA to become the model of healthcare for the future. Having regrets that I didn't attend the Naval Academy in Annapolis, I could now assist in the development of medical programs for Veterans, among whose ranks, I would have been proud to belong.

I was recruited by Mr. Kevin Buccola, National Healthcare Recruitment consultant for a position as Chief of Staff for a newly created healthcare system called Texas Valley Coastal Bend Health Care System, Harlingen Texas. As I understood, TVCBHCS was

separating from its larger entity of Audie Murphy in San Antonio, Texas. With the new system about to stand alone along the Rio Grand Valley, a 166,309 square foot Ambulatory Surgery Center and Specialty Clinics was being constructed.

I was interviewed and offered the position. My knowledge, expertise and experience of managing large medical groups and building a stand alone ambulatory surgical center was everything the VA and myself were looking for. [Exhibit A- 19]

Once I started packing and closing my house in Florida I was called from Texas and explained that because of finances and different avenues of compensation my title was now changed to Associate Chief of Staff for Ambulatory Care. My role would be the exact same, take care of the disharmony that has been fostered in the different outpatient clinics and guide the ASC to completion. This was agreed to, and once again we had exchanged the basic beliefs that I was not to get clinical privileges and my role was purely administrative.

One aspect of the whole underlying issue of my dismissal is the repeated lie that I was hired for Primary Care and that I was never assigned responsibilities to the running of the ASC and had no oversight for ambulatory care. Leadership has gone so far as to swear to this lie to everybody they have been queried by and actually went directly to Congressman's Hinojosa's office to perpetrate this lie. This visit to Congressman Hinojosa's office (Dr Raul Aguilar, Jeffrey Milligan, Director, and Lawrence Biro, Director of VISN 17) was to actually speak to Washington why the private health systems were not being paid promptly for their services and why the ASC was not completed and functioning. Instead, the conversation went immediately to the subject that I was a disgruntled employee who was fired and the only responsibility I had was for primary care. All I can say is that I have never been trained in Internal Medicine and Dr. Aguilar and his AO were clearly told this by the credentialing officer, Les Cook from Audie Murphy in San Antonio, Texas. Included is his analysis of the events surrounding my hiring where he cited actual law to explain that I could perform in a position of leadership (administrative only), and could not be credentialed for Primary Care. Dr. Aguilar actually responded that he was not hiring me as a physician but instead was hiring me for my business expertise and ability to bring an ASC on-line. [Exhibit A-18 through A-20]

In the memorandum dated June 30, 2011 [exhibit A-21 through A-24] regarding credentialing of Dr. Richard Krugman by Les Cook, CPCS, Program Specialist, credentialing and Privileging South Texas Veterans Health Care System. Les Cook states on July 28, 2010, he received a request from Marissa Alamilla, AO to the Chief of Staff at Valley Coastal Bend to start the credentialing and privileging process for Dr. Richard Krugman. Marissa asked Mr. Cook to rush his application for medical staff appointment because Dr. Krugman was needed to assist with the planning and functional design of the Ambulatory Surgical Center (ASC) in the Valley. Marissa Alamilla stated that Dr Krugman was being placed in the Associate Chief of Staff (ACOS) for Ambulatory Care position because they did not have a position in existence for anyone to help build the

ASC by ordering equipment and designing work flow. Dr. Aguilar, Chief of Staff at Valley Coastal Bend, later verbally reinforced this need to rush because of the help they needed with the ASC and Dr Krugman's particular expertise in getting facilities like this up and running. Dr Aguilar also said that Dr. Krugman needed to be in an ACOS position in order to justify the pay offer that was going to be needed in order to recruit him to the Valley.

Since Dr. Krugman was being placed in the position as an ACOS for Ambulatory Care, Mr. Cook sent to Dr. Krugman a Primary Care privilege delineation form. After speaking with Dr. Krugman, Les Cook realized that I was an anesthesiologist by training and had no experience in Primary Care. Further, Dr. Krugman had not performed any patient care in recent years because of his duties as a CEO of multiple companies in multiple states. This meant that it would be difficult to show evidence of current competence in patient care.

As Les Cook described on the memorandum, he discussed these details at great length with Dr. Aguilar and Marissa Alamilla. Dr. Aguilar decided instead to send him the privilege for Compensation and Pension (C & P) because "it is easy to justify C&P privileges" and they really only needed him on staff to work with getting the ASC up and running. Les Cook complied with Dr. Aguilar's decision and a C&P form was sent to Dr. Krugman on August 6, 2010. The entirety of the Les Cook memorandum can be found in the addendums. It eventually became obvious that Dr. Aguilar has a disrespect and lack of understanding by Dr. Aguilar for the specialty of Compensation and Pension, which is illustrated by a letter from Dr. Alan Dinesman, which discusses the complexity of the specialty [Exhibit A-25 through A-26].

Mr. Les Cook was subsequently reprimanded by the VA for providing this information to me. In fact, Mr. Cook has left the VA for the private sector, a loss, in my estimation that will truly be felt by the VA.

In a letter dated November 4, 2011 from Daniel Martinez, MD, Board Certified Cardiothoracic Surgeon and Chief of Surgery for the new ASC and TVCBHCS states that he was explicitly told by Dr. Aguilar that Dr. Krugman was going to be on board assisting with the opening and management of the new ambulatory surgical center (specifically the ASC activation) here in Harlingen, Texas. As Dr. Martinez relates "it was clear to me from this conversation that this was to be Dr. Krugman's primary function". [Exhibit A-27]

He goes on further to state the, "Later, Dr Aguilar attempted to have me (Martinez) review consults from various clinics for referral to private providers." Dr. Martinez relates his uncomfortableness of him personally reviewing internal medicine consults with referrals to the required specialist, as he deemed this function to not be in the scope of his training. Shortly thereafter, Dr. Martinez returned to his private practice. E-mails will be found in the addendums.

As I arrived into Texas, once again, the title started changing. I was to be The Associate Chief of Staff for Ambulatory Care and hold Privileges in Compensation and Pension. I said no. It was not part of any medical training I had and for the convenience of either getting me paid or being given clinical privileges I would not go along with the sham.

Within the first month of my new role as ACOS, I found/uncovered/discovered what really was taking place at TVCBHCS. The position of Chief of Staff went to Dr. Raul Aguilar, an Internist who was recently the Chief Medical Officer of the McAllen Outpatient Clinic, McAllen, Texas. An outpatient clinic of less than 10 physicians. From what I understood the Chief of Staff resigned rather abruptly and Raul was the Acting Chief of Staff. With no post-graduate education, reasonable medical education or practical experience in running large groups, Dr. Aguilar was now the Chief of Staff. He enjoyed this new title and its financial remuneration for many obvious reasons.

After thoroughly reviewing the plans, blueprints and ideology of the new Ambulatory Surgery and Specialty Clinic's building, I had the first walk-through with the administrative staff, nursing, Chief of Staff and other personnel who will be associated with the new building. We met in the lobby of the building as a group. What followed was unimaginable and too surreal to really believe what was occurring. I asked the group how many were familiar with the operation and running of an ASC facility. Only one hand went up, a nurse. Has anyone ever been on a surgical floor in a hospital? The same nurse and our new chief of surgery, Dr. Daniel Martinez, a cardiothoracic surgeon who was presently practicing cardiothoracic surgery at a neighboring hospital, raised their hands.

The reason that this is important, was that leadership had no knowledge of an ambulatory surgical center, the running or protective measures needed for acceptable outcomes. To me this was a recipe for disaster. **AROGANCE BASED ON IGNORANCE**. There was no respect to what could go wrong in an operating room arena. There was no appreciable knowledge of what type of cases could be done. We went over the basics of everything from who could do cases, what type of cases, what would be the appropriate ASA classification of a patient, malignant hyperthermia carts, code carts, who would run the code and what was the transfer policy if a patient must be transferred to a hospital.

It was as if I was speaking a different language. The only expression on administrations' face was how this Northeastern Jew dare embarrass us in this fashion. This facility was going to be a shining star on everyone's curriculum vitae.

I had not mentioned this before but it is appropriate now. At this first meeting it was noted that all appropriate electrical, sterilization, humidification systems did not exist. That within the first month of being on assignment it was abundantly clear that the facility would and could not pass inspection.

Upon realizing what I said, a closed meeting occurred and over the next year architects, electrical engineers, nursing assigned to sterilization, etc. all had to revamp procedures, plans and a great expense was undertaken to retrofit this building.

(Please review paper trail and e-mails for verification) [Exhibit A- 28 through A-31]

Enclosed as addendums, the above referenced exhibits are a paper trail that states everything that was deficient and the rush to correct because of the ribbon cutting that was approaching and the community already started hearing of the mismanagement of this project.

The Ribbon cutting, Dedication of the New Harlingen VA Outpatient Clinic and Surgical Center occurred February 02, 2011. What were dedicated were four walls not a surgery center. To this date June 12, 2012, not one open surgical case has been performed. All persons with the appropriate knowledge of what occurred no longer are associated to this project.

You will hear that VACO did come down in February 2012 to visit the project, interview the administration and in their opinion everything was appropriate. I would hope so. But that is not why we are here. As a whistleblower, I can only tell you what occurred while I was employed or thereafter. If they say that there is a dedicated HVAC, appropriate backup generator, a Surgical and Sterile Processing Department (SPD), appropriate Ventilation system, etc, etc. I would have to say I hope so. But that is not what I said. As a whistleblower I am relating what I knew up until the time I was discharged.

They did not mention what the costs were for the retrofit, the extent of the retrofit, that the majority of the OR equipment was not purchased until early September with a delivery October/November. Ten months after the ribbon cutting. At what cost and what pocket did it come from? In my addendums I will show that by December 2011, they realized what had occurred and a mad rush to correct before the public knew or VISN realized the extent of the cover-up. These costs should have been identified in the report and acknowledged to have been the result of waste and abuse as a minimum.

As of July 17, 2012, it appears that they are doing colonoscopies on the third floor. However, once again this is a procedure that can be performed in a physician's office, (considered a dirty procedure). Yes, a moderate case load of cataracts are being operated on by one physician, **BUT NOT ONE OPEN SURGICAL CASE HAS YET TO BE PERFORMED**. Even the acting chief of surgery will not do a case on the third floor. Because of her apprehension of retaliation, she does perform the simplest of biopsies on the second floor for pathology. She has announced that she is returning to active service at the end of the month. Their inability to make this facility fully functional as expected, for over a year after the ribbon cutting, is a waste and clearly impacts patient care.

The administrative officer and other titled persons (once again, afraid of retaliation) are documenting the inadequate HVAC and other electrical systems of this building. VACO came down in February 2012 for the inspection, declared the allegations were not substantiated, hence no recommendations. The winter compared to the summer is an

entirely different story. As charted by the titled health care providers, humidity and heat are unacceptable in the operating theatres. There is obvious moisture, condensation pouring off the windows because of the extreme differences in the temperature. This is the perfect environment for the formation of bacteria and I recite my allegation that the planning on this issue was improper, contrary to the findings in the report.

If it is correct as stated in the report that at the time of the investigation that HVAC, electrical, sterilization were all adequate, then where are the bills for the redesign, refit, rebuild that VACO said they found on their February inspection and therefore, then my allegations were not substantiated? What was and is the cost to the American Taxpayer and Veteran Patient for the necessary changes to bring the existing building to appropriate code? That information is an essential part of a complete report of investigation on a fraud waste and abuse complaint.

The second part of my position as Associate Chief of Staff for Ambulatory Care was to oversee the physicians at the four outpatient clinics attached to TVCBHCS. Of the four clinics only two had CMO's or a Chief Medical Officer to oversee and structure day to day assignments and review Fee Basis consults to the private sector. What this meant was since this start-up health system did not have any sub-specialty physicians (i.e. Cardiology, pulmonology, etc.) or almost none; the primary care veteran physician needed permission to refer his/her patient to a specialist. At this time there were approximately less than 20 primary care physicians to over-see 40,000 plus patients.

The problems that came to light were disturbing. There was a general feeling of disgust and resentment in all four clinics to administration. The physicians were over worked, threatened by administration (retaliation), disrespected by allied health and more importantly unable to give appropriate care to their patients. All of which I discovered during a further assessment. None of which I would have allowed in the private or academic centers I was affiliated with.

In the most recent OIG reports regarding Patient Care Concerns?

TVCBHCS lacks an adequate care management system to coordinate care between VA providers and Fee Basis providers, and primary care providers are not notified of patient visits with a Fee Basis provider or about the outcome of visits within a reasonable period of time.

In the majority of Fee Basis referrals, patients never saw the Fee Basis provider because they never received a letter approving a Fee Basis consult, did not know what to do with the letter if they got one, or they could not find a doctor who would take Fee Basis patients.

TVCBHCS has not established a system to ensure timeliness of care for veterans requiring interfacility consults or Fee Basis consults.

Patient care has been hampered with e-mails from the director (as stated on e-mail dated January 12, 2011) [Exhibit A-32] that the goal for FY 2011 is to reduce Fee Basis (non-

VA Care) by 10% from previous year. This is despite the fact that the patient population continues to grow at 17%.

This disparity has resulted in Patient Care has being jeopardized by TVCBHCS for failing to honor or pay their different medical vendors. Once again, E-mail from Douglas Matney (South Texas Health System states the amount owed to his healthcare system is greater than \$13,000,000 [exhibit A-13] and from Salomon Torres (Congressman's Hinojosa's office) Valley Baptist is owed \$8,000,000 plus [exhibit A- 13]. This does not even include the private physicians who haven't been paid in 3 years. It is also, once again, related to the cost over-runs in the retro-fit of the building to bring it to correct medical and surgical standards. To put it bluntly, the money that should have been used for patient care, including reimbursement to third party providers, was needed to fund the cover-up of an inappropriately designed building.

According to the report, these debts have been corrected. I am sorry to say, that is WRONG. According to the two health systems as of this date they are owed the same amounts as before and are considering legal action. [Exhibits A-33, A-34]

As recently as this month, the OIG had a surprise inspection (nothing is a surprise) at the Laredo Outpatient Clinic, Laredo, Texas. The inspection was focused on the recertification of CPR (cardio-pulmonary resuscitation) privileges with the allied staff associated with the LOPC. Enough to say that fraud was found in the credentialing packages of many of the personnel. A cover-up that was initiated by the administration of VATVCBHCS. With this fraud and abuse, direct Veteran Patient safety was affected and each and every patient was jeopardized.

Summary of Conclusions

Inadequate Facilities at Harlingen Care Center:

I will repeat my opening remark. My name is Richard S. Krugman, MD and I am a whistle blower. As such I should have been offered whistleblower protection regarding my concerns of Fraud, Waste and Abuse; but more importantly the inadequate and poor veteran patient care perpetrated by the Texas Valley Coastal Bend Health Care System (TVCBHCS) and the administration of VISN 17 including its Director.

To remind everyone, I was separated from The Veterans Administration on June 14, 2011 and my separation was due to what I discovered/uncovered during my time of employment, September 12, 2010 till June 14, 2011, not what is occurring presently or on the Last VACO inspection dated February 8-9, 2012.

Let me start with this statement," Twelve months after the ribbon cutting, Five months after The VACO inspection or in total, seventeen months after the ribbon cutting, NOT ONE open surgical case has been performed in the new Operating Rooms of the Ambulatory Surgical Center. In fact the original Chief of Surgery, Dr. Daniel Martinez

and his Administrative officer Mr. Charles Dubois both resigned in April/May 2011 because they both had realized that administration was incompetent to move the project to a successful conclusion. Presently, the Acting Chief of Surgery has announced her retirement because of the fear of retaliation.

Once again in the Report to the office of Special Counsel, Facility profile, it states that the HCC at Harlingen began operation in January 2011, for medical sub-specialty services with the surgery floor activating during the summer of 2011.

Once again either an error or misrepresentation of the truth was concluded during VACO summation to the Office of Special Counsel.

As noted in e-mails directed from Stephen Castillo, Account Executive-Monitoring for DRAEGER Equipment, monitoring equipment, anesthesia equipment, etc., was not ordered until August 2011 and received until mid-late October 2011.(Emails included) [Exhibits A-35 through A-38].

TVCBHCS and VACO are very quick to say that they are now performing colonoscopies on the third floor. If necessary the exact date of the first colonoscopy can be noted as well as the number of colonoscopies per week. What is important to note, is that colonoscopies are considered dirty procedures, and usually done in physician offices or in procedure rooms off the OR flows. In this regard, VA spent \$50 million dollars for a procedure that could have been done in the existing Harlingen Clinic.

Also E-mail from Dr. Ruben Salinas, Ophthalmologist and Ophthalmic Surgeon, dated August 18, 2011, item # 7 “ Despite that I was hired as a Cataract Eye Surgeon, no procedures have been done to this date, they have all been fed out, because of the lack of Equipment and Human Resources in the Operating Rooms.” This is a direct answer to allegation #7 that “the facility” was not able to support the surgical specialties [Exhibits A-39 through A-42].

Item # 5 “up until now I still do not have a clinic of my own because of the lack of equipment and the lack of Certified Eye Technicians. There is a long waiting list of patients to be seen because of the lack of equipment in the eye clinic”.

Item # 1 “During the last six months since I have been hired, I have only seen Dr. Aguilar twice come to the Eye Clinic and on both occasions the Eye Team was humiliated instead of praised for our efforts in trying to provide the best possible eye care to our veterans without the proper equipment or Human Resources and that was done in front of the nurses”. (Emails included) [Exhibit A-39 through A-42].

Facility Profile

Once again VACO is stating that on inspection there was no findings, hence no recommendations. Inspection was conducted more than one year after I began expressing my concerns to the administration.

E-mail dated February 28, 2011 from Abel Gonzales, Chief of SPD, and Directed to Jeffrey Milligan, Director:

Mr. Gonzales expresses his concerns regarding the new facilities' temperature and humidification systems. As the temperature and humidity were not controllable, measurements were outside of norm and certification would be impossible.

E-mail dated March 15, 2011 from Abel Gonzales, Chief of SPD to the director; his worries are increased when after weekend shutdowns the heat, humidity and moisture are unacceptable. He states that these systems must be on constantly with no evening or week end shut down. When these systems are off they allow heat and humidity to build up, which affects walls, floors and sterile items allowing bacteria to establish growth. When the systems start back up after being down, they create turbulent air which picks up any particles that have settled [Exhibits A-28 through A-31].

E-mail dated April 29, 2011 from Douglas Matney, Group Vice President, UHS South Texas, directed to Jeffrey Milligan, Director:

It is important to note that Universal Health Systems is one of the largest Health Systems in the country and TVCBHCS refers a majority of their patients to these hospitals because of their proximity to the different out patient clinics that comprise TVCBHCS.

Mr. Matney relates" The first rumor is that the new VA center has significant problems both with equipment and with construction. The rumor is that critical and necessary equipment did not get ordered. But more significant is that there are problems with the electrical and HVAC system that will require rework. According to the rumors, some portions of the new VA center will not be open until 2012 despite the "ribbon cutting" that occurred. I don't know anything else beyond this concern, but one of them was talking about going to Senator Hutchinson or the press." [Exhibits A-43, A-44].

"The second concern was about the treatment of vets, in particular since the Cornerstone contract expired. This concern came from one of the same vets (the one that wanted to go to the press) but have also come from another individual and from two local physicians. It has to do with screening of vets for colorectal cancer. The rumor is that the national standard is endoscopy but the VA is only doing Fecal Occult Blood Test (FOBT). These studies are not accurate, take months to complete, and are at least ten years behind the times. They may have been the standard of care in the 1990's but not today. Again, I have no idea if this is true or not. But I have to tell you I do wonder what happened to over 50 colonoscopies a procedure frequently performed at cornerstone and now the local GI physicians confirming they do not see in their offices. I also told Dr. Martinez about this rumor when he was here, but at that time I'd only heard it from two sources and now this is up to four sources.

Prior to inspection from Joint Commission which was requested by San Antonio for complete separation of systems, roughly 1,800 patient records were removed from the system. This demonstrates the discontinuation of patient care with removal from the system. Or in other words, these were patients who fell through the cracks of the separation or transfer of data to the new CPRS system. No matter what, 1,800 patients

were purposely deleted as a "clean-up" before the inspection. It was answered by VATVCBHCS that Dr. Aguilar reviewed the charts medically and then deleted. Once again, this falls somewhere short of the truth. Firstly, Dr Aguilar did not review the patient records, but his, AO, Marissa Alamilla, an employee with no prior medical training. This was all done to show a continuance of care which was appropriate in order to pass inspection. Once the inspection was over, patient records had to be manually re-entered as the patients came back for subsequent visits [Exhibits A-47, A-48].

The questions that should have been asked:

@Who allowed or signed off on the initial construction?

@Who was responsible for the knowledge of what is necessary for the construction and appropriate functioning of the ASC?

@Where did the cost over-runs for redesigns, rebuild, etc. come from?

@Why was the appropriate authority not notified immediately?

@With these cost over-runs prohibitive, which Veteran Patient Care services were sacrificed for not making the public aware of this cover-up?

@Why is the standard of care different for the Veteran Patient as compared to the tens of thousands of Veteran Administration employees that at age fifty, receive colonoscopies as routine screening.

List of Supporting Documentation

- A-1 Special Counsel Commends MSPB Study on Whistle blowing
- A-2 Protection from Reprisal for Whistle blowing, Eric Shinseki
- A-3, A-4 Regarding Patient Care Concerns
- A-5 July 18, 2011, Congressman Ruben Hinojosa (D-15th)
- A-6, A-7 August 11, 2011, Congressman Ruben Hinojosa (D-15th)
- A-8, A-9 September 27, 2011, Congressman Hinojosa (D-15th)
- A-10, A-11 December 13, 2011, Congressman Hinojosa (D-15th)
- A-12 Authorized VA Form 10-2543
- A-13 Outstanding amounts owed to STHS and Valley Baptist
- A14—A-16 Sluggish reimbursements for Veteran Care, US Rep. Blake Farenthold
- A-17, A-18 Garza: VA is not paying medical providers
- A-19 Kevin Buccola, appt for Chief of Staff
- A-21—A23 Memorandum for Record Dr Krugman, Les Cook
- A-25, A-26 Alan Dinesman, Chairman of Comp and Penn, San Antonio
- A-27 Daniel Martinez, MD., Dr Aguilar, explicitly told him that Dr Krugman
Was hired for the activation and running of the ASC
- A-28—A-31 Deficiencies in the ASC
- A-32 Mr. Milligan, reduction of fee basis consults by 10%
- A-33, A-34 Money still owed to private health systems. Legal action
- A-35—A-38 Stephen Castillo, Draeger equipment. Order finally submitted 08/11 and
not delivered until 12/11
- A-39---A-42 Dr Ruben Salinas, ophthalmologist, waited one year to practice
- A-43—A-46 Douglas Matney, STHS, comments
- A-47, A-48 Discontinuation of patient care

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- A-17, A-18 Garza: VA is not paying medical providers
- A-19 Kevin Buccola, appt for Chief of Staff
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- A-25, A-26 Alan Dinesman, Chairman of Comp and Penn, San Antonio
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U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

Special Counsel Commends MSPB Study on Whistleblowing

CONTACT: Ann O'Hanlon, (202) 254-3631; aothanlon@osc.gov

WASHINGTON, D.C./Nov. 22, 2011 –

Federal employees reporting waste, fraud and abuse routinely face retaliation and must be protected from it in order for the government to function at its best. Special Counsel Carolyn Lerner commends the new report from the Merit System Protection Board which highlights this reality: *Blowing the Whistle: Barriers to Federal Employees Making Disclosures*.

According to the report, approximately one-third of the individuals who believed they had been identified as a source of a report of wrongdoing perceived either threats or acts of reprisal, or both. In addition, the report found an increase in the percentage of employees aware of waste caused by a badly managed program and a significant increase in the number of employees who observed acts of wrongdoing that would cost more than \$100,000. Lerner said, "With the government facing a fiscal crisis, OSC's role to protect whistleblowers has never been more important."

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing. For more information, please visit our website at www.osc.gov.

Department of
Veterans Affairs

Memorandum

Date: February 13, 2012

From: Secretary (00)

Subj: Protection from Reprisal for Whistleblowing

To: To All Employees

1. I want to reiterate and reaffirm VA's commitment to whistleblower protection and creating an environment in which employees feel free to voice their legitimate concerns without fear of reprisal. There are several avenues of redress available for employees to address reprisal for whistleblowing, including reporting it to VA's Office of Inspector General, your local Congressional representative, Merit Systems Protection Board, and the Office of Special Counsel. A summary of these venues and contact information is attached.
2. It is a prohibited personnel practice for an agency to subject an employee to a personnel action if the action is threatened, proposed, taken, or not taken because of whistleblowing activities. Whistleblowing means disclosing information that the employee reasonably believes is evidence of a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. An employee is protected if he/she makes such a disclosure to the Special Counsel or the Inspector General. Additionally, an employee is protected if he/she makes such a disclosure to any other individual or organization, such as a Congressional Committee or the media, provided that the disclosure is not specifically prohibited by law.
3. Protecting employee rights is a statutory obligation. Managers and supervisors have a responsibility and will be held accountable for enforcing standards of appropriate workplace behavior, and are expected to take prompt action to deal with any conduct identified as reprisal based on whistleblowing. This includes the taking of appropriate disciplinary action, ranging from a 10-day suspension to removal in accordance with the Agency's Table of Penalties, when the circumstances warrant.
4. I encourage each of you to familiarize yourself with this information and I remind every manager of this Department's responsibility to maintain a workplace that respects its employee's ability and right to raise legitimate concerns without fear of retribution.
5. If you have questions regarding this subject, please contact Tonya Deanes, Deputy Assistant Secretary for Human Resources Management, at (202) 461-7766.



Eric K. Shinseki

Attachment

Richard Krugman

From: Richard Krugman [rkrugman@pma-fl.com]
Sent: Monday, December 19, 2011 12:00 PM
To: rkrugman@pma-fl.com
Subject: FW: this is a concise answer to her question

Regarding Patient Care Concerns

- TVCBHCS lacks an adequate care management system to coordinate care between VA providers and Fee Basis providers, and primary care providers are not notified of patient visits with a Fee Basis provider or about the outcome of visits within a reasonable period of time.
- In the majority of Fee Basis referrals, patients never saw the Fee Basis provider because they never received a letter approving a Fee Basis consult, did not know what to do with the letter if they got one, or they could not find a doctor who would take Fee Basis patients.
- TVCBHCS has not established a system to ensure timeliness of care for veterans requiring interfacility consults or Fee Basis consults

Patient care has been hampered with e-mails from the director (as stated on e-mail dated January 12, 2011) that the goal for FY 2011 is to reduce Fee Basis (non-VA Care) by 10% from previous year, even though patient population continues to grow.

Patient care has been jeopardized by TVCBHCS for failing to honor or pay their different medical vendors.

E-mail From Douglas Matney (South Texas Health System) he state the amount owed to his healthcare system is greater than \$13,000,000.00 and from Salomon Torres (congressman's office) Valley Baptist is owed \$8,000,000 plus.

This does not even include the private physicians who haven't been paid in 3yrs.

I believe this is all the result of an improperly built ASC and the expenses to refit and rebuild correctly at a great cost to the public.

The list below goes over my claims of their fraud and abuse:

- 1/ Selection of highly paid surgical specialists before they have the facilities for them to practice (sitting around) – Waste
- 2/ Granting recruitment and relocation incentives to providers without them signing retention agreement (Ayaram and others) Providers transferred out within 1 year – waste.
- 3/ Gaming the hiring system to bring on “consultant” for ASC, while administratively placing them in ACOS position – Fraud
- 4/ requiring licensed physicians to go against standard of care by requiring lower quality diagnostics (fecal smear instead of colonoscopy) – Abuse of authority
- 5/ Failing to pay valid bills submitted by patient care facilities. Bad faith when collection attempts are made – fraudulent business practices
- 6/ Gaming the physician payment system to favor some physicians by creating fictitious positions – fraud, waste
- 7/ Building multi-million dollar ASC that lacks required engineering to function, thus requiring multi-million dollar retrofit – negligent fraud
- 8/ Requiring reduction in referrals despite medical necessity determined by licensed physician – abuse of power
- 9/ No facility, no money for preventative screening programs – negligent fraud, abuse of power, medical malpractice

A-3

6/21/2012

- 10/ Memorandum – all elective surgical procedures transferred to San Antonio
- 11/ most surgeons hired have either lost their surgical skills or have been practicing in San Antonio
- 12/ Sterilization department. On original build out never specified. Once again retro build with re-ordering of equipment
- 13/ No Pharmacology build out with specifics to IV fluids, prepared by pharmacy. Once again retro build.
- 14/ Building multi-million dollar ASC that lacks HOAVC (humidification specialized for OR's,) without, medium culture for bacterial infection
- 15/ Until recently, although I did four separate pay panels, no salary adjustments in over four years.

A-4

COMMITTEE ON
EDUCATION AND THE WORKFORCE
RANKING MEMBER, SUBCOMMITTEE ON
HIGHER EDUCATION AND WORKFORCE TRAINING
SUBCOMMITTEE ON HEALTH, EMPLOYMENT,
LABOR AND PENSIONS

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON CAPITAL MARKETS
AND GOVERNMENT SPONSORED ENTERPRISES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT



House of Representatives
Rubén Hinojosa
15th District, Texas

WASHINGTON OFFICE:
2282 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-2531
FAX: (202) 225-5688

EDINBURG OFFICE:
2864 WEST TRENTON ROAD
EDINBURG, TX 78539
PHONE: (956) 682-5545
FAX: (956) 682-0141

BEEVILLE OFFICE:
107 SOUTH SAINT MARY'S
BEEVILLE, TX 78102
PHONE: (361) 356-8400
FAX: (361) 356-8407

Rep.Hinojosa@mail.house.gov
www.house.gov/hinojosa

July 18, 2011

Mr. Jeffery L. Milligan
Director, VA Valley Coastal Bend
Health Care System
2701 South 77 Sunshine Strip
Harlingen, Texas 78550

Dear Director Milligan:

I learned today that you will conduct an administrative hearing tomorrow to assess the employment status of Dr. Richard Krugman, Associate Chief of Staff for Ambulatory Care at the Harlingen VA Health Care Center. Although the hearing is expected to focus on the ability of Dr. Krugman to continue to serve the VA, this matter raises larger and broader issues that could have an impact on the ability of VA to deliver health care services to our veterans in the Rio Grande Valley and South Texas.

I respectfully request that you arrange for a written and recorded verbatim transcript of the one-hour proceeding. The issues that will be discussed regarding the capacity and readiness of our Harlingen veterans facility to provide medical care as intended are of great interest to me as the U.S. Congressman for Harlingen and District 15. As you know, I have worked for years with my congressional colleagues to expand medical services for veterans --- and we will not stop working until we achieve full hospital services here in Deep South Texas.

In the meantime, this new federal investment in medical facilities for our veterans must operate efficiently and effectively. If that is not occurring 5 months after its grand opening, then the congressional delegation will be greatly interested in visiting with the VA Secretary to ensure that the promises made to veterans are kept.

I would appreciate your prompt response to this request. At the same time, I expect that Dr. Krugman will, like any other VA employee, receive a fair hearing. You can contact me at 202-225-2531 in Washington, D.C. and ask for Connie Humphrey, Chief of Staff or Salomon Torres, District Director in the Edinburg District Office, at 956-682-5545.

Sincerely,

A handwritten signature in cursive script that reads "Rubén Hinojosa".

Rubén Hinojosa
Member of Congress

A-5

COMMITTEE ON
EDUCATION AND THE WORKFORCE

RANKING MEMBER, SUBCOMMITTEE ON
HIGHER EDUCATION AND WORKFORCE TRAINING
SUBCOMMITTEE ON HEALTH, EMPLOYMENT,
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SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT



House of Representatives
Rubén Hinojosa
15th District, Texas

VIA ELECTRONIC MAIL

August 11, 2011

The Honorable Eric K. Shinseki, Secretary
U. S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D. C. 20420

Dear Secretary Shinseki:

On February 25, 2011, I joined my colleagues Congressman Henry Cuellar and Congressman Blake Farenthold and U.S. Senator Kay Bailey Hutchison to celebrate the grand opening of the VA Health Care Center (Ambulatory Surgical Center which falls under the VA Texas Valley Coastal Bend Health Care System serving veterans south of San Antonio). Veterans and the public were in high spirits and the expectations for greater medical services were high, especially to eliminate the dreaded 10-hour round trips to San Antonio for medical appointments.

The August recess is an opportune time to assess how medical services are currently being delivered at this VA facility and at the nearby VA outpatient clinics and private hospitals contracted by VA. Toward that end, I am inviting you to my Congressional Listening Session to take place at the Regional Academic Health Center in Harlingen, Texas. This event will take place on Thursday, September 1, 2011 from 10:00 am to 12:00pm. I have also invited Congressmen Henry Cuellar and Blake Farenthold, both of which represent portions of our Deep South Texas region. I have also invited U.S. Senators John Cornyn and Kay Bailey Hutchison.

As you may know, I am the sponsor of legislation (H.R. 837) that would direct the VA to construct a VA inpatient health care facility at the Harlingen VA site. The feedback from the September 1 event will be important for me to gather and for VA to hear. We need to assess the state of health care delivery in our region to determine if the correct mix of medical facilities and contracts has been put in place.

A new circumstance has arisen that raises the importance of this public meeting with veterans. A VA whistleblower recently brought to my attention serious allegations about the new Harlingen facility. Dr. Richard Krugman was recruited as the Chief of Staff for this new center in the fall of 2010. Dr. Krugman states that he raised these concerns with VA management in Harlingen upon observing the alleged deficiencies with the facility. In the attached memorandum, he explains his concerns about the new building and about medical care for veterans. Subsequently, VA has scheduled his separation from VA to be effective on August 13, 2011 (see attached separation notice).

WASHINGTON OFFICE:
2260 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-3501
FAX: (202) 225-5608

EDINBURG OFFICE:
2064 WEST TRENTON ROAD
EDINBURG, TX 78539
PHONE: (956) 832-5545
FAX: (956) 832-0141

BEEVILLE OFFICE:
107 SOUTH SAINT MARY'S
BEEVILLE, TX 78102
PHONE: (361) 356-8400
FAX: (361) 356-8407

Rep.Hinojosa@mail.house.gov
www.house.gov/hinojosa

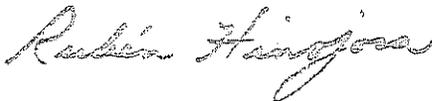
Mr. Eric K. Shinseki
Secretary
U. S. Department Veterans Affairs
August 11, 2011
Page 2

Please know that because Dr. Krugman believes VA has retaliated against him for raising these concerns, he has filed a Whistle Blower Complaint with the Office of Special Counsel. I fully support his request (see attached request submitted to VA) that VA stay the separation. It appears to be a reasonable request to enable a full evaluation of the allegations and to give VA adequate opportunity to respond while Dr. Krugman is still an employee.

These allegations are serious and require a complete response by VA. As you know, in these austere times all federal investments require that any waste or mismanagement of federal resources be addressed. If these allegations are true, accountability is required to ensure corrective action to make the VA facility fully operational and to assess the performance of responsible VA personnel and contractors. As the national steward of our impressive VA medical system, I know that you too will want these issues addressed as quickly as possible.

Please contact me at 202-225-2531 if you have any questions and to inform us if you can attend. Your office can also contact my staff (Connie Humphrey, Chief of Staff in D.C. or Salomon Torres, District Director at 956-682-5545). Thank you for your attention to this very important matter.

Sincerely,



Rubén Hinojosa
Member of Congress

Attachments

cc: Jeff Milligan, Director, VA TX Valley Coastal Bend Health Care System, Harlingen, TX
Lawrence A. Biro, VISN 17 Network Director, Dallas, TX
Robert A. Petzel, MD., Under Secretary, VHA
Joan Mooney, Assistant Secretary for VA Congressional and Legislative Affairs, Washington, DC
W. Scott Gould, Deputy Secretary, VA Public and Intergovernmental Affairs, Washington, DC
George Opfer, VA Inspector General, Washington, DC

COMMITTEE ON
EDUCATION AND THE WORKFORCE
RANKING MEMBER, SUBCOMMITTEE ON
HIGHER EDUCATION AND WORKFORCE TRAINING
SUBCOMMITTEE ON HEALTH, EMPLOYMENT,
LABOR AND PENSIONS

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON CAPITAL MARKETS
AND GOVERNMENT SPONSORED ENTERPRISES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT



House of Representatives
Rubén Hinojosa
15th District, Texas

WASHINGTON OFFICE:
2255 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-2501
FAX: (202) 225-5590

EDINBURG OFFICE:
2034 WEST TRENTON ROAD
EDINBURG, TX 76809
PHONE: (858) 691-5507
FAX: (858) 692-0141

BEEVILLE OFFICE:
107 SOUTH SAINT MARY'S
BEEVILLE, TX 78002
PHONE: (361) 350-9606
FAX: (361) 350-0467

Rep.Hinojosa@mail.house.gov
www.house.gov/hinojosa

VIA ELECTRONIC MAIL

September 27, 2011

The Honorable Eric K. Shinseki, Secretary
U. S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D. C. 20420

Dear Secretary Shinseki:

This letter follows up my correspondence of August 11, 2011 to which I have yet to receive a response. In that letter, I invited you to my Congressional Listening Session that took place in Harlingen, Texas on September 1. The purpose of the event was to assess how well VA medical services are being delivered at the local outpatient facilities in my district and through private hospital contracts. It was a very constructive session which, unfortunately, you were unable to attend.

The input from veterans confirmed some of the concerns raised in my letter of invitation. It is becoming clearer that improvements need to be made by VA in your VA Texas Valley Coastal Bend Health Care System, especially at the new VA Health Care Center at Harlingen (ambulatory & surgical center). Since the last letter, VA Texas Valley Coastal Bend System Director Jeff Milligan in Harlingen was transferred to a similar VA post in North Texas.

As you may recall, one of the sources of information about the problems at the new Harlingen VA facility was Dr. Richard Krugman who was originally recruited to serve as Chief of Staff for the new Harlingen center but was reassigned. The VA ordered his separation from VA effective August 13, 2011. Through the request of the Office of Special Counsel (OSC) and this congressional office, the VA granted a 45-day delay in the separation. That extension expires today.

Since the VA has not yet responded to my congressional inquiry and the OSC has not completed its investigation, I am requesting that VA provide an additional 90-day extension. Dr. Krugman's cooperation as a VA employee is essential. Please know that OSC is reviewing two matters related to Dr. Krugman's situation. One review focuses on VA's decision-making and conduct and Dr. Krugman's job performance and conduct. A second review focuses on potential and alleged waste, fraud, and abuse committed by VA at the new Harlingen ambulatory and surgical center.

Mr. Eric K. Shinseki
Secretary
U. S. Department of Veterans Affairs
September 27, 2011
Page 2

At the Congressional Listening Session I heard veterans' allegations regarding poor customer service, continued burdensome 5-hour travel to San Antonio for medical appointments for minor appointments or to provide patients for medical fellow training in San Antonio, and insufficient medical personnel being employed at our local VA facilities. Although the two private hospital contractors (Valley Baptist Health System and South Texas Health System) have not complained or sought my assistance to address the status of unpaid VA bills, my office has learned that both contractors are owed millions. As a congressman, this overall situation raises alarms whether the VA is appropriately allocating valuable financial resources within the VA.

To repeat from my first letter: these allegations are serious and require a complete response by VA. As you know, in these austere times all federal investments require that any waste or mismanagement of federal resources be addressed. If these allegations are true, accountability is required to ensure corrective action to make the Harlingen VA facility fully operational and to assess the performance of responsible VA personnel. As the national steward of our impressive VA medical system, I know that you too will want these issues addressed as quickly as possible.

I await your response to these concerns and your decision in regards to Dr. Krugman's continued employment status. Your office can contact my staff (Connie Humphrey, Chief of Staff in D.C. or Salomon Torres, District Director at 956-682-5545). Thank you.

Sincerely,



Rubén Hinojosa
Member of Congress

CC: Danna Malone, Acting Director, VA TX Valley Coastal Bend Health Care System, Harlingen, TX
Lawrence A. Biro, VISN 17 Network Director, Dallas, TX
Robert A. Petzel, MD., Under Secretary, VHA
Joan Mooney, Assistant Secretary for VA Congressional and Legislative Affairs, Washington, DC
W. Scott Gould, Deputy Secretary, VA Public and Intergovernmental Affairs, Washington, DC
George Opfer, VA Inspector General, Washington, DC

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COMMITTEE ON
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House of Representatives
Rubén Hinojosa
15th District, Texas

WASHINGTON OFFICE:
2262 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-2621
FAX: (202) 225-2688

EDINBURG OFFICE:
2864 WEST TRENTON ROAD
EDINBURG, TX 78539
PHONE: (956) 802-5545
FAX: (956) 682-0141

BEEVILLE OFFICE:
107 SOUTH SAINT MARY'S
BEEVILLE, TX 78102
PHONE: (361) 356-8400
FAX: (361) 356-8407

Rop.Hinojosa@mail.house.gov
www.house.gov/hinojosa

VIA ELECTRONIC MAIL

December 13, 2011

The Honorable Eric K. Shinseki, Secretary
U. S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D. C. 20420

Dear Secretary Shinseki:

By now you should have received the December 2, 2011 letter from the U.S. Office of Special Counsel addressed to VA employee and whistleblower Dr. Richard Krugman concluding that "that there is a substantial likelihood that the information that you [Dr. Krugman] provided to OSC discloses a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, and a substantial and specific danger to public health." I understand that you now have 60 days to conduct an investigation.

This is a very serious and disturbing finding by a credible and independent third party. As you recall, I had written previously to you on August 11 and September 27 forwarding to you these concerns and allegations raised by Dr. Krugman. To date, I have not received a written response to those letters, although a delegation of VA personnel subsequently met with my staff to provide an update on the ongoing work to operate the new VA Ambulatory and Surgical Center under the VA Texas Valley Coastal Bend Health Care System. From that update, it was clear that progress was being made, but much work needed to be done, especially on issues that I heard expressed directly from veterans at my September 1 recess Listening Session in Harlingen, Texas in my congressional district.

Dr. Krugman is slated for separation from the VA on December 14. His original date of separation was scheduled for August 13. However, due to requests for extension from the OSC and my office, at least four (4) extensions have been granted to date. Whistleblowers can prove to be invaluable to shed light on waste, abuse, and mismanagement of federal resources. (See attached OSC study.) In these economic times, now more than ever we need to protect federal employees that are willing to step forward with information that could save the federal government millions of dollars.

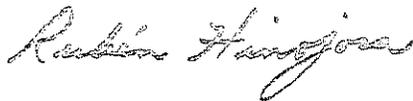
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Mr. Eric K. Shinseki
Secretary
U. S. Department of Veterans Affairs
December 13, 2011
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Therefore, because it appears that Dr. Krugman's allegations were accurate and may lead to savings for the VA and better operation of the new Harlingen facility, I am respectfully recommending that VA issue an indefinite stay of Dr. Krugman's termination. In addition, the OSC has completed its investigation of a second inquiry addressing VA's personnel actions against Dr. Krugman; legal review of these findings is now underway. It seems ill-advised to terminate Dr. Krugman at this time if at all. In fact, he remains willing to serve the VA Texas Valley Coastal Bend Health Care System given his qualifications, skills and experience that were the initial basis by VA to recruit him to Deep South Texas.

Your prompt attention to this matter would be greatly appreciated. Recently, Congress invested considerable time to review whistleblowers' allegations in other matters. I suspect that this matter could potentially generate the same degree of oversight review. Please contact me if you have any questions about this third inquiry (Connie Humphrey, Chief of Staff in D.C., at 202-225-2531 or Salomon Torres, District Director in Texas, at 956-682-5545). Thank you.

Sincerely,



Rubén Hinojosa
Member of Congress

cc: Danna Malone, Acting Director, VA TX Valley Coastal Bend Health Care System, Harlingen, TX
Lawrence A. Biro, VISN 17 Network Director, Dallas, TX
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W. Scott Gould, Deputy Secretary, VA Public and Intergovernmental Affairs, Washington, DC
George Opfer, VA Inspector General, Washington, DC

A-11



BOARD ACTION

INSTRUCTIONS — Prepare on copy for Field Station and one copy for Central Office for all employees for whom Board Action is forwarded to Central Office for review of filing in Board Action Folder.

1. EMPLOYEE/APPLICANT'S NAME

Richard Krugman, M.D.

1A. EMPLOYEE'S POSITION

1B. EMPLOYEE'S GRADE AND STEP

1C. NAME OF STATION

Texas VCB HCS

INITIATING BOARD

2. NAME OF BOARD (Check one)

PROF. STD. BOARD

DISCIPLINARY

PHYSICAL STANDARDS

3. STATION OF BOARD

Texas Valley Coastal Bend Health Care System

4. DATE

5. FINDINGS

The Professional Standards Board met to consider the appointment of Richard Krugman, M.D., Medical Staff appointment and Privileges at the Texas Valley Coastal Bend Health Care System. Board findings are as follows:

CITIZENSHIP: USA

MEDICAL EDUCATION: MD, 12/1980, Universidad Autonoma de Guadalajara, Mexico
MD, 06/1984, State University of New York @ Stony Brook

ECFMG: N/A

INTERNSHIP/ RESIDENCY Internal Medicine, Fifth Pathway, SUNY @ Stony Brook, Jul 1983 – Jun 1984
Pediatrics, Mt. School of Medicine at Elmhurst Hospital, Jul 1984 – Jun 1985
Anesthesiology, Hahnemann University Hospital, Jul 1985 – Jun 1988

FELLOWSHIP: Anesthesiology, Hahnemann University Hospital, Jul 1988 – Jun 1989
Anesthesiology, Duke University School of Medicine, Jul 1989 – Apr 1990

BOARD CERTIFICATION: Anesthesiology, indefinite

CURRENT LICENSURE: California A052843 Expires: Jun 30, 2011
Florida ME54446 Expires: Jan 31, 2011

PROFESSIONAL EXPERIENCE:

Jan 1981 – Jun 1983	Self-employed	
Apr 1990 – Jul 1990	Unemployed	New York
Jul 1990 – Jun 1991	Surgical Center of Boca Raton	Florida
Jun 1990 – Jun 2006	Vanguard	Boca Raton, FL
Jul 2006 – Aug 2010	Retired	Boca Raton, FL
Sep 2010 - current	S. Texas VA Health Care System	Boca Raton, FL
		San Antonio, TX

VA works to resolve problems after doctors, veterans complain about sluggish reimbursements for care

By Rhiannon Meyers

Originally published 06:40 a.m., March 18, 2012

Updated 10:36 a.m., March 18, 2012

CORPUS CHRISTI — Disabled veteran Roy Stamper, 54, spends his days in front of a television, hobbling around his apartment on a cane and managing the constant sharp pain and numbness in his artificial hips with daily morphine pills.

For months, Stamper tried to find a local orthopedic surgeon to take a look at his hips and diagnose the pain, but over and over again, he found that doctors simply refused to accept a voucher that promised reimbursement for care from the U.S. Department of Veterans Affairs.

Some local doctors have stopped seeing veterans because the VA has taken too long to reimburse them for the treatment.

The VA now is working to resolve the backlog of claims after U.S. Rep. Blake Farenthold, R-Corpus Christi, complained that slow payments put local veterans at risk of not getting the care they need.

Officials with the regional VA health system treating Valley and Coastal Bend veterans say there are 12 outstanding claims to be processed. However, two Corpus Christi doctors say that they alone have more than 40 outstanding claims awaiting VA payment.

Froy Garza, spokesman for the VA Texas Valley Coastal Bend Health Care System, could not immediately explain the discrepancy.

He said the VA plans to "substantially resolve" outstanding claims within three months and will report its progress to Farenthold and other stakeholders.

Farenthold urged the VA to meet that timeline in a Feb. 9 letter to the director of the VA health network that extends from the Oklahoma border south to the Rio Grande Valley.

"These delays are unacceptable," he wrote. "The VA has a responsibility to serve those who have served our country, and it is my hope that you and your colleagues will in fact remedy this situation within the 90-day time frame you mentioned."

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Farenthold said Wednesday that he will round up veterans and doctors and hold a news conference on the VA's doorstep if outstanding claims aren't resolved in the coming weeks.

"We're going to call them out," he said.

Farenthold intervened after veterans and physicians contacted him and his staff numerous times to complain about the extraordinarily long delays. Because Corpus Christi does not yet have a VA specialty clinic, the VA has been offering vouchers to veterans to receive specialty treatment from local, private providers with the promise that those providers will be reimbursed by the VA for that care.

The voucher program was seen as an improvement over the former system. In years' past, veterans needing specialty care had to drive to VA hospitals in San Antonio or Houston for treatments, testing and hospitalizations.

The vouchers, however, have proved troublesome for some area veterans because reimbursements are slow coming. Farenthold said the VA owes physicians in his district almost \$1 million for services dating back several years. The VA could not immediately confirm the amount of outstanding claims.

Farenthold's office staff, citing the confidentiality of constituent casework, declined to say how many complained or which providers were affected.

The VA in a prepared statement said that four veterans have complained about their inability to find doctors to accept VA vouchers, according to their patient tracking system. The VA issued 1,496 vouchers from Oct. 1 to Feb. 15 to veterans receiving primary care at the Corpus Christi clinic.

Stamper, who complained to both the VA and Farenthold about his inability to find an orthopedic surgeon willing to accept the voucher, blamed the VA for not making timely payments to doctors and making them skittish about taking the vouchers.

"The service to the veterans, to put it mildly, is crappy," Stamper said.

Other veterans disagreed, saying service has improved in recent years and that they have no problems obtaining care with a voucher.

"From time to time, doctors didn't want to take the voucher," said Ram Chavez, a former Army combat medic and advocate for area veterans. "But the last time I heard a complaint about it was a few months ago."

Toby Cross, the Nueces County Veterans Service Officer, said the situation was far worse a year and a half ago.

"It's my understanding that some of the vouchers were being paid slowly by the VA and so area physicians were not as willing to accept those vouchers," he said. "I've attended workshops conducted by the VA and they are well aware of the problem and they are doing something about it."

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Dr. Luis Armstrong, a Corpus Christi gastroenterologist, said he stopped accepting the vouchers in April 2010 because the VA was not paying him. He hired a biller to handle the problem, a big expense for a small provider, and still the VA hasn't paid 20 claims, including colonoscopies and hospital stays, he said.

Armstrong said it hurt him to turn away veterans because he owes his training to the VA system. That's why he continued to see veterans long after he stopped getting paid, he said. However, it's reached the point where he can no longer afford that, he said.

"Unfortunately, I cannot work without proper reimbursement," he said. "Economically, I cannot do it."

The slow payments haven't stopped The Orthopaedic Center of Corpus Christi from accepting vouchers, but the center is much more selective now about whom it will accept, said Linda Hernandez, clinic administrator.

"I don't think we're as apt to say, 'Yes, yes, yes' as we were in the past," she said. "We were saying yes to all of them. Again, you can only give out so much without having compensation back."

In a prepared statement provided by Garza, VA officials blamed the sluggish reimbursements on a greater-than-anticipated demand for vouchers and improper claims from providers.

Claims processing is delayed when providers submit claims the VA rejects for several reasons, such as using incorrect billing codes, submitting duplicate claims for the same care, providing treatment not preapproved by the VA or seeking reimbursements for more than the authorized rates, according to the VA.

The VA said it now has the right mix of improved initiatives and enhanced processes to successfully resolve outstanding claims. When asked to describe those initiatives and processes, the VA said in a prepared statement that it plans to report its progress to stakeholders at least once a month in the next 90 days.

Delayed reimbursements aren't uncommon and the VA has worked nationally to pay those claims quicker. VA standards call for 90 percent of all valid claims to be paid within 30 days, and the VA is working on a plan to further expedite the payment of electronic claims, said Patricia Gheen, deputy chief business officer for purchased care.

On average, VA offices nationwide pay 80 percent of claims within 30 days, she said. As the regional VA works toward improving claims payments, local veterans likely will get better access to specialty care anyway after a new specialty clinic opens in Corpus Christi as early as June, according to the VA.

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Garza: VA Is Not Paying Medical Providers in a Timely Fashion

1 February 2012

Arturo 'Treto' Garza

HARLINGEN, Feb. 1 – South Texas veterans must reinvigorate themselves and be determinative of the outcome of organizational efforts to bring a full service medical center to the Rio Grande Valley region.

First we must see where we are and where we want to go. This coming year is very important to all those that wish to help make our VA hospital a reality. Again, it might take some time, but veterans have laid the ground work and now must make sure that all that has been done does not go down. Some have already made up their mind that they are in it for the long haul. But, veterans need more volunteers from their ranks. I am not saying we should assuage those that are just creating division amongst the rest; veterans need to start working as one again, united.



Arturo 'Treto' Garza. (File photo: RGG/Steve Taylor)

Congressman Henry Cuellar has opened a possibility for veterans to make their dream come closer to reality. He has identified the Strategic Capital Investment Plan (SCIP) which is the blueprint for the Veterans Affairs' future planning on construction and expansion of health care services and construction. It is up to veterans now to lend Congressman Cuellar a hand and follow his lead because, as you know, progress does not happen overnight.

Veterans must regroup and form a more unified group so that the Veterans Administration, other organizational agencies and our elected officials that are in a position to help us get the VA hospital understand that there is indeed a need and it can be a realistic effort.

Our national elected officials are ready to commit our military in foreign excursions that lead to war or other type of police action. It is easy for them to make this decision because America allows them to do it. Those that lead commit our military to action do not take into account the needs of those servicemen send in harm's way after they return home.

Veterans must not assume that now that the VA has received the House of Representatives suggestion on improving medical care to veterans in rural areas that the VA will take upon themselves to address the issue. The VA has created the VA Texas Valley Coastal Bend Health Services and is expanding all four outpatient clinics in this region. It bodes well with many veterans because their medical providers are closer to them. But when it comes to specialty care, there is none. The VA refers those veterans to private medical care providers within the community. The VA uses the voucher type system and private medical providers must agree to them before setting up appointments and testing. If an emergency occurs, the veteran must present his VA medical card. If admitted the VA will be responsible for costs.

But herein lies, a problem, the VA does not pay the medical providers in a timely manner. Many of them are hesitant to commit

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their resources due to this. Another factor is that the private medical providers do not have all the medical information on VA patients. If a veteran goes to an emergency room and he has a history of diabetes and the medical providers are not told about it by him or his immediate family, the medical providers will not know. If the patient requires surgery, this information is crucial. This applies to other medical issues that might be noted in his VA file.

And it is more expensive to continue doing the medical provider contracts than if the VA would do in-house care. Private medical providers see that there is another bite at the apple through VA payments. If the veteran has Medicare, that fund will also be tapped by the private medical providers, as well as private insurance. Sometimes all pay and sometimes some take time to process their reimbursement claims.

These are reasons why the Valley needs a VA Full Service Medical Center and the sooner that VA recognizes this fact, the more they will save in the future. So, the VA must be made aware of this and other issues.

At this time veterans must figure out who is on the SCIP committee that is overseeing its planning. Veterans must concentrate on the committee recommendations on priorities in the SPIC 10 year plan.

Veterans in South Texas must understand that it will take time to have a full VA hospital. First a decision has to be made by the VA to do such. And right now the situation presents itself to let the VA know that it would be more economically feasible to expand the present Surgical and Specialty Surgical Center into a full service medical center. There is no need for expensive new construction. There is plenty of room in the new building.

Arturo 'Treto' Garza served as a Marine in the Vietnam War and is a former co-chair of the Veteran's Alliance of the Rio Grande Valley. Garza's Veteran's Voice column appears exclusively in the Guardian. Garza lives in Harlingen, Texas.

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Richard Krugman

From: Buccola, Kevin (HRRO) [Kevin.Buccola@va.gov]

Sent: Thursday, June 30, 2011 8:00 AM

To: rkrugman@pma-fl.com

On Jan 8, 2010 I received an email from Dr. Krugman asking questions about the Chief of Staff position in Harlingen Texas. I was the recruiter assigned to assist in the advertising and recruitment for the new facility. We talked about the location and position. Dr. Krugman then forwarded me a copy of his Curriculum Vitae (CV) and I proceeded to complete his license and certification verifications. I then forwarded his application to Human Resources, Mrs. Cordova letting her know that Dr. Krugman was applying to the Chief of Staff position. She then forwarded the application to Mr. Milligan, Director of Harlingen VA.

I was informed later the Dr. Krugman has been selected for the position and was starting in September 2010. I was under the assumption that it was the Chief of Staff position. I was then informed that Dr. Aguilar was selected as the Chief of Staff temporarily and Dr. Krugman was the Associate Chief of Staff (ACOS) until Dr Aguilar left. As time went by I was informed again the Dr. Aguilar decided to stay and then Dr. Krugman was staying in the position of ACOS.

I contacted Mrs. Cordova and find out what had happened and all she could tell me was the Dr. Aguilar decided to stay for at least 3 years.

For professional reasons Dr. Krugman then contacted me to begin searching for other Chief of Staff positions within the VA Healthcare System. Since I have forwarded his application to several locations to help him find the Chief of Staff position he deserves.

Kevin Buccola
National Healthcare Recruitment Consultant
Healthcare Retention & Recruitment Office
South Central Region VISN 16
1555 Poydras St, Suite 1971
New Orleans, La. 70112
O/P 504-565-4853
Fax 504-565-4909

Connect with VA Careers:



Department of
Veterans Affairs

Memorandum

Date: June 30, 2011

From: Les Cook, CPCS

Subj: Memorandum for Record Dr Krugman Credentialing

On July 28, 2010, I received a request from Marissa Alamilla, AO to the Chief of Staff at Valley Coastal Bend, to start the credentialing and Privileging Process for Dr Richard Krugman. At the time, Valley Coastal Bend was part of the South Texas Veterans Healthcare System. As such we were responsible for the credentialing and Privileging of all Licensed Independent Practitioners that were being staffed in the Valley.

Marissa asked me to rush his application for medical staff appointment because Dr Krugman was needed to assist with the planning and functional design of the Ambulatory Surgical Center (ASC) in the Valley. She said that Dr Krugman was being placed in the Associate Chief of Staff (ACOS) for Ambulatory Care position because they did not have a position in existence for anyone to help build the ASC by ordering the equipment and designing work flow. Dr Aguilar, Chief of Staff at Valley Coastal Bend, later verbally reinforced this need to rush because of the help they needed with the ASC and Dr Krugman's particular expertise in getting facilities like this up and running. He also said Dr Krugman needed to be in an ACOS position in order to justify the pay offer that was going to be needed in order to recruit him to the Valley.

Since Dr Krugman was being placed in the position as an ACOS for Ambulatory Care, I sent him the Primary Care privilege delineation form. However, in speaking with Dr Krugman, I discovered that he was an anesthesiologist by training and had no experience in Primary Care. Further, Dr Krugman had not done any anesthesia patient care in the recent year because of his duties as CEO of multiple companies in multiple states, which meant that it would be difficult to show evidence of current competence in patient care anesthesia.

I discussed this at length with Dr Aguilar and Marissa. I suggested that since Dr Krugman was an anesthesiologist, we could process a request for anesthesia privileges, with a provision for proctoring or a period of supervision. Dr Aguilar decided instead to send him the privilege form for Compensation and Pension (C&P) because "it is easy to justify C&P privileges" and they really only needed him on staff to work with getting the ASC up and running. I complied with Dr Aguilar's decision and sent Dr Krugman the C&P form on Aug 6, 2010.

I also pointed out to Dr Aguilar and Marissa that Dr Krugman was not technically qualified to be the "Service Chief" for Ambulatory Care because he was not board certified in that specialty, or have comparable qualifications, per VA Handbook 1100.19, 5, f, (1), (a)¹. I advised that while this did not preclude him from being ACOS for Ambulatory Care, he should not be acting as a Service Chief for the purpose of reviewing Primary Care physicians' application for medical staff appointment and privileges.

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and a CEO for an anesthesia staffing agency, he was ill equipped to make decisions regarding Primary Care patient treatment. As a matter of fact, in the VA's eyes, C&P privileges are not considered patent care privileges and only allows for exams that are the equivalent of an insurance assessment. Treatment plans, diagnosing and prescribing are not permitted under these privileges (See VA memo dated Sept 15, 2010, signed by the Deputy Under Secretary for Health for Operations and Management which specified that C&P "examiners provider NO medical care"). But this was Dr Aguilar's decision.

I explained to Dr Krugman what Dr Aguilar had decided and sent him the C&P form. Dr Krugman was compliant with Dr Aguilar's wishes and told me that he would do whatever Dr Aguilar asked because Dr Aguilar had made it clear that he was really there to get the ASC up and running. So, he returned the completed C&P privilege request form.

Dr Krugman's application was completed and Dr Aguilar recommended approval of C&P privileges on Aug 30, 2010. He then presented the application to the Professional Standards Board on Aug 31, 2010. The application was subsequently approved by the director.

//Signed//
Les Cook, CPCS
Program Specialist, Credentialing and Privileging
South Texas Veterans Health Care System

f. Verifying Specialty Certification

(1) Physician Service Chiefs

(a) Physician service chiefs must be certified by an appropriate specialty board or possess comparable competence. For candidates not board-certified, or board certified in a specialty(ies) not appropriate for the assignment, the medical staff's Executive Committee affirmatively establishes and documents, through the privilege delineation process, that the person possesses comparable competence. If the service chief is not board certified, the Credentialing and Privileging file must contain documentation that the individual has been determined to be equally qualified based on experience and provider specific data. Appointment of service chiefs without board certification must comply with the VHA policy for these appointments as appropriate.

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Krugman, Richard

From: rkrugman@pma-fl.com
Sent: Friday, January 21, 2011 9:22 AM
To: Krugman, Richard
Subject: Fw: Timeline info
Attachments: FW: ACOS Position; RE: Names of Chief of Departments /Service Chiefs

Sent via BlackBerry by AT&T

From: "Cook, Leslie" <Leslie.Cook2@va.gov>
Date: Fri, 21 Jan 2011 09:16:19 -0600
To: <rkrugman@pma-fl.com>
Subject: Timeline info

I received a request from Marissa Alamilla on 7/28/2010 naming him as ACOS for Primary Care.

After reviewing Dr. Krugman's CV, I noticed that he didn't have any training or experience in Primary Care. That is problematic in that if he were to be acting as a Primary Care Service Chief, he would need to be Board certified or board eligible (to use an outdated term) in the specialty of Primary Care for the purposes of recommending approval of privileges, according to VA handbook 1100.19. Marissa and Dr Aguilar indicated in a phone call that Dr Krugman was actually being hired for his expertise in setting up new clinics. But they needed to fit him in a currently open slot in order to do that.

We also discussed that all of Dr. Krugman's training was in Anesthesiology, but he had not been in direct patient care recent because of his recent retirement and the fact that previously, he was the CEO of his company. I suggested that he be evaluated for anesthesiology privileges, but if approved, have a detailed FPPE or a period of proctoring. But, instead, Dr. Aguilar asked me to send him the Compensation and Pension Privileges because those were easy to justify approval of. Dr. Aguilar indicated that it didn't matter what privileges he held, because he was coming to be utilized in a capacity to help get the new Surgical Center up and running.

*Email dated 8/4/2010 to Marissa Alamilla and Raul Aguilar. CC'd to Anna Valdez and Deborah Ortis
"Good morning,*

I got the application packet out to Dr Krugman today after a morning meeting here.

One thing I noticed when reviewing his CV and after speaking with him on the phone was that he has not had any clinical care experience for several years (been solely in administration and did not hold privileges). Because of that, I do not expect to be able to show documentation of current clinical competence. We should start thinking sooner, rather than later, of how we are going to address that either in FPPE or with some sort of proctoring plan. I think Deb Ortis has some specific expertise in this area and will be able to offer good advice.

In the mean time, we haven't even gotten the privilege delineation request back from him yet. I just want us to be proactive in addressing rather than trying to come up with something at the board.

Let me know if I can help."

Dr Krugman Completed the Medical Staff Application in VetPro on Aug 6, 2010 and was awarded a medical staff appointment on Sept 8, 2010 with privileges in Compensation and Pension.

A-23

Richard Krugman

From: Buccola, Kevin (HRRO) [Kevin.Buccola@va.gov]

Sent: Thursday, June 30, 2011 8:00 AM

To: rkrugman@pma-fl.com

On Jan 8, 2010 I received an email from Dr. Krugman asking questions about the Chief of Staff position in Harlingen Texas. I was the recruiter assigned to assist in the advertising and recruitment for the new facility. We talked about the location and position. Dr. Krugman then forwarded me a copy of his Curriculum Vitae (CV) and I proceeded to complete his license and certification verifications. I then forwarded his application to Human Resources, Mrs. Cordova letting her know that Dr. Krugman was applying to the Chief of Staff position. She then forwarded the application to Mr. Milligan, Director of Harlingen VA.

I was informed later the Dr. Krugman has been selected for the position and was starting in September 2010. I was under the assumption that it was the Chief of Staff position. I was then informed that Dr. Aguilar was selected as the Chief of Staff temporarily and Dr. Krugman was the Associate Chief of Staff (ACOS) until Dr Aguilar left. As time went by I was informed again the Dr. Aguilar decided to stay and then Dr. Krugman was staying in the position of ACOS.

I contacted Mrs. Cordova and find out what had happened and all she could tell me was the Dr. Aguilar decided to stay for at least 3 years.

For professional reasons Dr. Krugman then contacted me to begin searching for other Chief of Staff positions within the VA Healthcare System. Since I have forwarded his application to several locations to help him find the Chief of Staff position he deserves.

Kevin Buccola
National Healthcare Recruitment Consultant
Healthcare Retention & Recruitment Office
South Central Region VISN 16
1555 Poydras St, Suite 1971
New Orleans, La. 70112
O/P 504-565-4853
Fax 504-565-4909

Connect with VA Careers:

888-238-2737
www.va.gov/careers

6/29/2012

A-29

From: Dinesman, Alan H.
Sent: Thursday, December 30, 2010 4:50 PM
To: Aguilar, Raul; Alamilla, Maria
Cc: Silva, Estrella ; Mikanowicz, Jessie A.; Ramirez, Deborah ; Crawford-Robinson, Nona; Ramirez, Deborah ; Krugman, Richard; Scoggins, Victoria R.; Muncey, Sarah J.; Reed, Judith D.; Melgoza, Victor; Boyd, Teresa D.; Flynn, Julianne; Patel, Preeti
Subject: RE: C&P training

Raul and Marisa,

It was very much a pleasure to work with Dr. Melgoza. I was very impressed with how quickly he learned as much of the C&P examination process as he did in such a short period of time.

I do want to share some information that I feel is important to take into consideration as Valley Coastal Bend proceeds with setting up its C&P process. C&P is very different now from what it was in 2009 when Marisa left the San Antonio C&P program in San Antonio. There are multiple new programs in place, not just IDES (which is its own separate issue). These differ not only in their clinical approach, but are also very different from an administrative process. These include such issues as the Nehmer cases, BDD, and quick start cases, and a new express process that Regional Office is starting up, and not to mention the Homeless C&P claims, and even the soon to be required use of ICD9 codes in C&P exams and the DBQ exam process.

I have attached the OIG report that was released in March 2010 as I think it is informative in understanding what has been identified as issue in the C&P exam process as it has been done in the past. The C&P process has evolved and become more complex. One indicator of the complexity of C&P is that there is currently "talk" that C&P will be its own unique product line nationally in 2011. Another important note is on page 10 of the OIG report: "Local VHA personnel reported that it can take up to one year to hire, privilege, credential and train a provider to conduct C&P medical exams".

As a result of what sounds like a lack of full understanding of the intricacies of the C&P exam process, some people in the past thought that you could take a seasoned general medical physician and have them take the CPEP certification exam and then within a week or two they were "fully trained" to do C&P exams. This unfortunately is far from true. My personal experience with new clinicians is the pattern of after one month feeling like they understand, in the second month realizing that they don't, in the third month frustration with the process, and by 6 months the beginnings of some confidence. I have a physician I hired over a year ago who was in private practice for many years, followed by nearly a decade in the VA system. He has likened his experience in C&P as being similar to doing another internship. It is not the medical components that are unique, it is the medico-legal aspect and its intricacies that are new and foreign to most clinicians. Please understand that Dr. Melgoza is now at the 1 month mark, or slightly less. He will very likely find the next several months to a year, or more, a challenge. Also, given the sheer volume of information relayed to him to learn about the C&P exam process, he has had only very limited exposure to the administrative side of the C&P exam process. I have let him know that since there is no experienced C&P clinical staff at VCB, he is welcome to call me, or my staff, with questions.

I have been told that you will be using QTC for a significant number of exams. Please see in the attached report that QTC's requirements are different than the VA C&P's. Also of note is that QTC has essentially limited what exams they are willing and contracted to do. For example, they will not do the Gulf War Protocol exams which is one of the most complex exams in the system and poses a significant challenge in understanding to both VBA and C&P. These have been complicated enough where I have personally had to contact a lawyer on the Veteran's Board of Appeals that serves on the National CPEP Clinical Advisory Board with me in order to understand a variety of issues with Gulf War exams (These are not the Gulf War registry exams, this is a totally separate AMIE C&P exam template).

When I worked with QTC for 1.5 years prior to coming to C&P, they very rarely did opinions. In fact, in that year and a half, I physically saw only one C-file. It is my understanding that they are now doing some opinions, but it seems to me that we (C&P) are getting the far majority. In fact, there is rarely a week that goes by that we don't get several 2507 exam requests stating that an exam was done by QTC and now an opinion is requested. There are also several conditions, such as sleep apnea, that QTC will not evaluate. Since sleep apnea is currently being rated as a 50% service connection, it is a very commonly claimed condition. So as you can see, QTC will help with the straight forward type claims, however, the most complicated issues will be sent to C&P. In fact, QTC cannot do Appeals nor Remands, which can be complicated, time consuming and confusing. Please note also that for 2011 the contractors received only 1 year contracts, whereas in years past it is my understanding they were for 3 to 5 years. This, along with the release of DBQ's which are supposed to be possible to be filled out by the primary care physicians both inside and outside of the VA, suggest that the use of contractors may be limited in years to come. With this in mind, please give careful consideration to the discussion in the attached OIG report about C&P programs not providing sufficient clinical and administrative staff for their stations.

I am more than happy to answer any questions that may arise about the C&P process. If I am unable to answer them personally, I will hopefully be able to direct you to someone who can. Please don't hesitate to contact me if I can be of assistance. I am assuming from the e-mail below that Dr. Meigoza will not be returning to San Antonio in January, nor after that. If this is not the case, please let me or Jessie Mikanowicz know so we can make arrangements for appropriate clinic accommodations. We have outgrown our current clinic location, and want to make sure that we have a room for him to do exams if so desired.

Hope everyone has a wonderful New Years, and looking forward to a great 2011.

Alan

Alan H. Dinesman, MD
Service Chief, Compensation and Pension
Frank Tejada Outpatient Clinic
San Antonio, Texas
210-699-2194
210-365-0032 (cell)

A-26

Daniel Martinez, M.D. P.A.
Daniel Martinez M.D.
Board Certified - Cardiothoracic, Vascular & General Surgery

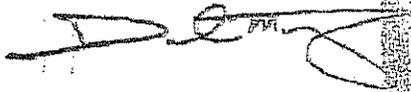
November 4, 2011

To Whom It May Concern:

Prior to my official arrival at Texas Coastal Bend Veteran's Health System I was advised by the Chief of Staff, Dr Raul Aguilar that Dr Richard Krugman was going to be on board assisting with the opening and management of the new ambulatory surgical center (specifically the ASC activation) here in Harlingen, Texas. It was clear from this discussion that this was to be Dr Krugman's primary function. The time when Dr Krugman was early November 2011 when he conducted a tour for me and several others at the ASC (Dr Wendell Jones and Dr Charles Buckley from VISN included). During this time some deficiencies in the ASC were identified and discussed such the practicality of having double doors in the room.

Later, Dr Aguilar attempted to have me review consultants from various clinics for referral to private providers. I did not feel comfortable with a doctor reviewing internal medicine consults and discussed the matter with him. He stated that he would be told me that he and Dr Krugman would be reviewing these consultants as part of the project.

Sincerely,



Daniel Martinez, M.D.

A-27

Richard Krugman

From: Krugman, Richard [Richard.Krugman@va.gov]
Sent: Friday, March 04, 2011 3:00 PM
To: rkrugman@pma-fl.com
Subject: FW: Temp and Humidity SOW for the HCC
Attachments: Temp-Humidity SOW.doc

From: Gonzales, Abel
Sent: Friday, March 04, 2011 2:53 PM
To: Krugman, Richard
Cc: Scoggins, Victoria R.; Shabazz, Malik
Subject: Temp and Humidity SOW for the HCC

Attached is what I sent forward about temp and humidity requirements in the HCC. Since this has gone out I have talked with one engineer from Boyer who will be here on the 16th. He outlined some of the adjustments being made to the existing system to bring temp and humidity into spec but ultimately that plan will not work against the tropical climate seen in this area. Guy Unger has a list of rooms within the building where sterile items are stored or procedures will be done that must be in temp and humidity range. Please let me know if you have any other questions.

Abel Gonzales RN BSN
Chief of SPD
The VA Health Care Center at Harlingen
Ambulatory Surgery & Specialty Clinics
2601 Veterans Dr
Harlingen, TX 78550
Office # 956-291-9294
Cell # 956-345-5492
abel.gonzales@va.gov



No virus found in this message.
Checked by AVG - www.avg.com
Version: 10.0.1375 / Virus Database: 1509/3659 - Release Date: 05/25/11

A-28

7/9/2011

February 28, 2011

Scope of work for humidity and temperature control at the VA HCC building Harlingen

The Interim Guidance for Ventilation Requirements in Sterile Processing Departments issued January 26, 2011 outlines temperatures of 72-78 degrees and humidity of 20-60%. The AORN 2009 recommendation for the OR and Sterile Processing are 68-73 degrees and humidity of 30-60%.

Our recent temperatures in the SPD and OR areas of the 3rd floor have ranged from 68-78 degrees and the humidity has been from 37-86%.

To be able to process instruments and store them sterile the temperature and humidity must be consistent and controllable 24/7. Infection control for patients also demands that the temperature and humidity be within the described parameters.

Requirement:

1. A mechanical system that will provide humidity/temperature that is within the ranges posted above on the entire 3rd floor. The rest of the building floors would also have better infection control opportunity with the same parameters.
2. Consistent delivery of proper temperature and humidity.
3. Controllable systems that can be adjusted to compensate for outside temperature change that is common to the region.
4. Monitoring of humidity/ temperature at multiple locations especially those where sterile procedures take place or sterile instruments are stored. Monitoring should feed into a central collection point and alarm triggers be set for notification of data that is out of range.

These systems must be on constantly with no evening or week end shut down. When these systems are off they allow heat and humidity build up to occur which affects walls, floors, and sterile items allowing bacteria to establish growth. When the systems start back up after being down they create turbulent air which picks up any particles that have settled.

March 15, 2011

Mr. Milligan,

In regards to the progress we are making for the stand up of SPD I believe we will be operational at the end of May. All equipment should be in and running with training in progress. I am navigating the lengthy processes for ordering items that have to be in place along with our ability to reprocess equipment. Items that are needed in SPD, OR, G.I. Lab, and PACU such as wall suction units are only a small example of additional equipment that must be in place. I wanted to point out several areas that must come on line about the same time as SPD.

1. Full staffing of SPD
2. Staffing of the G.I. Lab (Nurses and Techs)
3. Staffing for Anesthesia
4. Supply items specific for G.I. Lab
5. Anesthesia supplies (carts) and the predicable layout of their location and reorder.
6. SPD equipment and supplies and their predictable storage and reorder
7. G.I. endoscopes on site
8. Some PACU and pre-Op staff on site.
9. Control of the building temp and humidity

I bring these topics up for you to have all the information necessary to make decisions and plans about the future. In fact, there may be other process not in place I that I am unaware of. I do not want to present the picture that SPD running will equal complete readiness for G.I. Lab procedures. The reprocessing of instruments is one component of the entire service line. I am involved in helping areas outside SPD when necessary and will continue to do so. Please review the entire scope of facilities and manpower readiness to make a realistic plan for start time.

Respectfully Submitted,

Abel Gonzales RN
Chief of SPD
956-345-5492

A-30

Richard Krugman

From: Krugman, Richard [Richard.Krugman@va.gov]
Sent: Tuesday, March 15, 2011 3:44 PM
To: rkrugman@pma-fl.com
Subject: FW: HCC Power Outage

From: Bass, Sarah E.
Sent: Tuesday, March 15, 2011 3:43 PM
To: VCB OPC CMO AO NM; VCB Senior Management
Subject: HCC Power Outage

The HCC is experiencing a power outage and many folks are not able to use their computers. We are working to get this problem addresses ASAP

Thank you,

Sarah Bass
Operations Administrator
The VA Health Care Center at Harlingen
Ambulatory Surgery & Specialty Clinics
2601 Veterans Drive
Harlingen, Texas 78550
Sarah.Bass@va.gov
Office: (956) 291-9028 Direct Line Ext 69028
Cell: (210) 833-5284

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7/3/2011

A-31

Alamilla, Maria

From: Milligan, Jeffery L. (SES)
Sent: Wednesday, January 12, 2011 1:44 PM
To: Aguilar, Raul; Griffin, Karen F; Alamilla, Maria; Weatherby, Bradley K.; Krugman, Richard; Scoggins, Victoria R.
Cc: VCB OPC CMO AO NM; Nix, Angela J.; Malone, Danna
Subject: Fee Basis (Non VA Care) Reductions

As you know, one of our performance goals for FY 2011 is to reduce utilization of Fee Basis (Non VA Care) in VCB by 10%. This reduction is of course to be performed safely and effectively.

At the ELC yesterday, I was provided with the number of Fee Authorizations for FY 2010, 31,521.

Our goal for FY 2011 will be to reduce fee authorizations by 3152. We will discuss this tomorrow at morning report.

Thank you.

AK-32

Richard Krugman

From: Anthony Walluk [awalluklaw@hotmail.com]

Sent: Tuesday, August 16, 2011 8:26 AM

To: Dr. Krugman

Subject: RE: VCV/HCC

Dr. Krugman,

This should go to OSC. Do you have any problem with me forwarding it so they can add him to their investigation witness list?

Tony Walluk

From: rkrugman@pma-fl.com

To: Salomon.Torres@mail.house.gov

CC: awalluklaw@hotmail.com

Subject: FW: VCV/HCC

Date: Tue, 16 Aug 2011 07:38:38 -0500

Received this e-mail from Dr. Ruben Salinas last evening. Shows that situation worse than we thought and a group of physicians and surgeons in the process of quitting secondary to the way Dr. Aguilar and Mr. Milligan are running the program. Cathy Salinas, wife of Dr Salinas also got on the phone yesterday evening. She related that her friendship with the congressman dates back more than 30 years and would like a touch back probably from you or the congressman. She had definite opinions being the spouse but also living and working in McAllen over 30 years. Her number is (956) 330-5008

From: Ruben Salinas [mailto:rubensalinas@rgv.rr.com]

Sent: Monday, August 15, 2011 8:16 PM

To: Richard Krugman

Cc: rubensalinas@rgv.rr.com

Subject: VCV/HCC

Dear Dr. Krugman,

I was hired by you on February 28, 2011. I signed a contract for one year to be a Cataract Surgeon and to provide the best Eye Care with my training for our Veteran population.

I have been seeing patients under Dr. Bohart, because there were no other furnished Eye Examining Rooms. Over the past two weeks finally the Eye Clinic has the equipment for me to work with.

When I started there were two Certified Ophthalmic Assistants helping us with the work up of the patients. One of them was Mr. Russell Hagy who was promoted by the Administration (Dr. Aguilar) to be the person in charge of tele-retina leaving the Eye Clinic with only one COA to help two Ophthalmologist plus an Optometrist. Instead of helping the Eye Clinic this has hindered our efforts to provide the best Eye Care possible with our training.

For 12 weeks Dr. Aguilar did not allow us to perform any type of Laser Eye Procedures, despite the fact that I have as you know have been doing these procedures for the past 32 years and Dr.

A-39

Bohart for the past 40 years. All of these Lasers were feed out to Private Practitioner's in the area when there was no need for that at a great loss of Revenue for this Institution.

My surgical skills have suffered because the Surgical Suites are not ready yet for surgery due to multiply factors including the lack of hiring of the right Human Resources for these areas.

It seems to me that the HCC is being run by the Nursing Staff instead of the Physicians.

Dr. Aguilar has only come to the Eye Clinic twice since I have been there and instead of showing leadership and praising the work of the Physicians we have been blocked every step of the way in providing the best possible care that our Veterans deserve.

He has not even asked us what kind of Human Resources that we need in order to give and deliver the best Eye Care that our Veteran deserve. As you know for every Ophthalmologist and Optometrist the ratio is at least two COA Ophthalmic Assistants for each of them. In my opinion we have been losing Revenue not only for the amount of patients that had to be feed out but also for the lack of Human Resources that we need in the Eye Clinic and that we have not been provided with.

On the Medical Side you have also disenchanting positions which are extremely well trained and loyal to this Institution. I feel that we should have a full time Chief of Surgery and a Chief of Internal Medicine. I personally feel again that the Nurses have been given too much power in the decision making process in this Institution instead of the Physicians who are the ones in a Leadership Position to run the HCC.

In summary it is my own personal opinion that the people at all levels that work in the Administration Building should be moved to the HCC where there is plenty of room so that way the big disconnect between the two can be avoided.

I sincerely hope that this will provide you with some insight of what is transpiring at the HCC. If you need further information please do not hesitate to contact me either via e-mail and or personal meeting.

Best Regards,

Ruben F. Salinas M.D., F.A.C.S.

8/21/2011

A-40

From: Ruben Salinas
Sent: Thursday, August 18, 2011 8:13 PM
To: Richard Krugman
Subject: VCV/HCC. Raul Aguilar M.D. Chief of Staff

Dear Dr. Krugman,

I will try to summarize for you my experience to the exposure of Dr. Raul Aguilar.

1. During the last six months since I have been hired I have only seen Dr. Aguilar twice come to the Eye Clinic and on both occasions the Eye Team was humiliated instead of praising us for our efforts in trying to provide the best possible eye care to our Veterans without the proper equipment or Human Resources and that was done in front of the Nurses.
2. For three months he did not allow us to do any type of Laser Eye Procuders despite our qualifications instead he encouraged us to feed them out to Private Practitioners which was a great loss of Revenue for this Institution.
3. He has not provided us with the proper Human Resources for the two M.D.'s and one OD for the clinic to be more productive and provide our Veterans with more help to do diagnostic procuders it has taken six months or more for the rest of the Eye Clinic to have the proper instruments and equipment for us to perform our job.
4. He did not provide any training for the new comers Physicians and otherwise in order for us to learn the computerized patient record system of the VA and be more productive.
5. Up until now I still do not have a Clinic of my own because of the lack of the equipment and the lack of Certified Eye Technicians. There is a long waiting list of patients to be seen because of the lack of equipment in the Eye Clinic.
6. The past six months I have only seen Dr. Aguilar physically present at one of the Medical Staff Meetings.
7. Despite that I was hired as a Cataract Eye Surgeon no procuders have been done to this date they have all been feed out because the Operating Rooms lack of Equipment and Human Resources.
8. Since I have been in the Eye Clinic I have not seen a full time Nurse designated for our Clinic nor do we have a Crash Cart for an emergency in the Eye Clinic.

RS

9. Because the Nurses rule the HCC from Dr. Aguilars orders among the petty things that we have to go through is the fact that on a daily basis we have to ask the Pharmacy to provide us with dilating drops, antistatic drops and other eye meds that we require for our daily work.

10. There is still one Exam Room not furnished.

11. We still do not have an full time Chief of Surgery and or Chief of Internal Medicine and we still do not have an Anesthesiologist.

Best Regards,

Ruben F. Salinas M.D., F.A.C.S.

Item B

**Richard Krugman, M.D., the Whistle Blower
Recruited for expertise in ASC activation,
Anesthesiologist punished and position primary care**

**Item B Richard Krugman, M.D., the Whistle Blower
Recruited for expertise in ASC activation,
Anesthesiologist punished and position primary care**

VATVCBHCS leadership hired physicians in certain specialties, but in order to enhance their salaries or avoid licensing or certification problems, they were given titles that suggested they were performing other functions.

The VACO report alleges the whistleblower's title was change from ACOS for Ambulatory Care to ACOS for Primary Care. His job duties were clearly defined in letters, e-mails and conversation with him and confirmed further in meetings with written documentation when his performance was less than satisfactory. His title was changed to more clearly identify his responsibilities. A title including the word "ambulatory" suggests oversight of all ambulatory activities when his actual duties were confined to oversight of primary care, and as needed, consultative work for ACS. [Exhibit B-1, B-2]

At this time I believe it is important to underscore my background. I began my medical training with a Pediatric Residency at the Mount Sinai School of Medicine, New York, N.Y. This was followed by a Residency in Anesthesiology and a Fellowship in Cardiothoracic Anesthesiology at Hahnemann University Hospital, Philadelphia, Pennsylvania. I continued my post-graduate training with a second Fellowship in Acute and Chronic Pain Management at Duke University Medical Center, Durham, North Carolina.

In the early 1990's as a Physician/CEO/Owner, I developed the largest private anesthesia group on the East Coast. By expanding into other disciplines (Pediatrics, Gastroenterology, Internal Medicine, Family Practice and Chiropractic Medicine) the medical group became one of the largest private medical practices in the country. With greater than 800 full and partime professionals we were based out of Florida. With a strategic plan in place and through fiscal responsibility we were able to develop similar practices in 14 states. While building and strengthening the framework of the medical practice, we began building and acquiring Multi-specialty Ambulatory Surgical Centers. Our Mission Statement was to provide medical services in the most efficient, safe and effective environment within a framework of medical efficacy. In the process, we developed the expertise in Ambulatory Surgical Medicine by taking thirty-one Surgical Centers from their inception through the process of obtaining a Certificate Need (CON) to full licensure by The Joint Commission (JCAHO).

By 2006, the Medical Groups were sold to the leading Healthcare Providers in their respective regional areas and the Surgical Centers became an integral part of the Hospital system networks and physician practices in their various specialties. At this point, I believed I was retired (or so I thought).

After retirement I started to examine where I could best use the considerable knowledge and experience to help transform medicine to the new realities of the current Era. My

answer came directly from the President. First, during the 2008 Presidential election period when, then Senator Barack Obama said, "Yes We Can" or "Si Se Puede." It struck a very strong cord with my wife, Tamara, who was raised in Washington, D.C., by Kennedy Democrats. Then when President Obama gave his clarion call to service, I truly saw the path for what I like to call "The Third Act".

I would leave the private sector behind and look for a position in the Government where my expertise could be utilized. This in turn, led me to the Veteran's Administration where I felt my contribution could assist the VA to become the model of healthcare for the future. Having regrets that I didn't attend the Naval Academy in Annapolis, I now can assist in the development of medical programs for Veterans, among whose ranks, I would have been proud to belong.

I was recruited by Mr. Kevin Buccola, National Healthcare Recruitment consultant for a position as Chief of Staff for a newly created healthcare system called Texas Valley Coastal Bend Health Care System, Harlingen Texas. As I understood, TVCBHCS was separating from its larger entity of Audie Murphy in San Antonio, Texas. With the new system about to stand alone along the Rio Grand Valley, a 166,309 square foot Ambulatory Surgery Center and Specialty Clinics was being constructed. [Exhibit B-15]

I was interviewed and offered the position. My knowledge, expertise and experience of managing large medical groups and building a stand alone ambulatory surgical center was everything the VA and myself were looking for. [Exhibit B-3, B-4]

Once I started packing and closing my house in Florida I was called from Texas and explained that because of finances and different avenues of compensation my title was now changed to Associate Chief of Staff for Ambulatory Care. My role would be the exact same, take care of the disharmony that has been fostered in the different outpatient clinics and guide the ASC to completion. This was agreed to, and once again we had exchanged the basic beliefs that I was not to get clinical privileges and my role was purely administrative.

To note at this juncture:

VA Form 10-2543 (Exhibit B-5)

Internship/Residency: Pediatrics, Mount Sinai School of Medicine, N.Y., N.Y.
Anesthesiology, Hahnemann University Hospital, Philadelphia, Pa.

Fellowship: Anesthesiology, Hahnemann University Hospital, Philadelphia, Pa.
Anesthesiology, Duke Univ. School of Medicine, Durham, N.C.

Board Certification: Anesthesiology, indefinite

VA form 10-0432A [Exhibit B-6]

Compensation Panel Action; Recruit ACOS for Ambulatory Care

5-Part-50-316, dated 09/12/2010, Assignment Assoc COS Ambulatory Care [Exhibit B-7]

5-Part-50-316, dated 10/22/2010, Assignment Assoc COS Ambulatory Care [Exhibit B-8]

5-Part-50-316, dated 04/14/2012, Assignment Assoc COS Ambulatory Care [Exhibit B-9]

At no time was there a mention of Primary Care, Internal Medicine, Comp and Pen or active staff privileges. I was to hold Administrative Privileges only.

One aspect of the whole underlying issue of my dismissal is the repeated lie that I was hired for Primary Care and that I was never assigned responsibilities to the running of the ASC and had no oversight for ambulatory care. Leadership has gone so far as to swear to this lie to everybody they have been queried by and actually went directly to Congressman's Hinojosa's office to perpetrate this lie. This visit to Congressman Hinojosa's office (Dr Raul Aguilar, Jeffrey Milligan, Director and Lawrence Biro, Director of VISN 17) was to actually speak to Washington why the private health systems were not being paid promptly for their services and why the ASC was not completed and functioning. Instead, the conversation went immediately to the subject that I was a disgruntled employee who was fired and the only responsibility I had was for primary care. All I can say is that I have never been trained in Internal Medicine, nor would I have accepted a position in Primary Care. [Exhibit B-10, B-11]

Dr Aguilar and his AO were clearly told this by the credentialing officer, Les Cook from Audie Murphy in San Antonio, Texas. Included is his analysis of the events surrounding my hiring where he cited actual law to explain that I could perform in a position of leadership (administrative only), and could not be credentialed for Primary Care. Dr. Aguilar actually responded that he was not hiring me as a physician but instead was hiring me for my business expertise and ability to bring an ASC on-line.

In the memorandum dated June 30, 2011 regarding credentialing of Dr Richard Krugman by Les Cook, CPCS, Program Specialist, credentialing and Privileging South Texas Veterans Health Care System. Les Cook states on July 28, 2010, he received a request from Marissa Alamilla, AO to the Chief of Staff at Valley Coastal Bend to start the credentialing and privileging process for Dr. Richard Krugman [Exhibit B-12 through B-14]. Marissa asked Mr. Cook to rush his application for medical staff appointment because Dr. Krugman was needed to assist with the planning and functional design of the Ambulatory Surgical Center (ASC) in the Valley. Marissa Alamilla stated that Dr Krugman was being placed in the Associate Chief of Staff (ACOS) for Ambulatory Care position because they did not have a position in existence for anyone to help build the ASC by ordering equipment and designing work flow. Dr. Aguilar, Chief of Staff at Valley Coastal Bend, later verbally reinforced this need to rush because of the help they needed with the ASC and Dr Krugman's particular expertise in getting facilities like this up and running. Dr Aguilar also said that Dr. Krugman needed to be in an ACOS position in order to justify the pay offer that was going to be needed in order to recruit him to the Valley.

Since Dr. Krugman was being placed in the position as an ACOS for Ambulatory Care, Mr. Cook sent To Dr Krugman a Primary Care privilege delineation form. After speaking with Dr. Krugman, Les Cook realized that I was an anesthesiologist by training and had no experience in Primary Care. Further, Dr Krugman had not performed any patient care in recent years because of his duties as a CEO of multiple companies in

multiple states. This meant that it would be difficult to show evidence of current competence in patient care.

As Les Cook described on the memorandum, he discussed these details at great length with Dr Aguilar and Marissa Alamilla. Dr. Aguilar decided instead to send him the privilege for Compensation and Pension (C & P) because "it is easy to justify C&P privileges" and they really only needed him on staff to work with getting the ASC up and running. Les Cook complied with Dr. Aguilar's decision and a C&P form was sent to Dr Krugman on August 6, 2010. Remainder of the Les Cook memorandum can be found on the addendums. It eventually became obvious that Dr. Aguilar has a disrespect and lack of understanding for the specialty of Compensation and Pension, which is illustrated by a letter from Dr. Alan Dinesman, which discusses the complexity of the specialty. [Exhibit B-16, B-17]

Mr. Les Cook has since been reprimanded by the VA for providing this information. In fact, Mr. Cook has left the VA for the private sector. A loss that will truly be felt by the VA.

In a letter dated November 4, 2011 from Daniel Martinez, MD, Board Certified Cardiothoracic Surgeon and Chief of Surgery for the new ASC and TVCBHCS states that he was explicitly told by Dr Aguilar that Dr Krugman was going to be on board assisting with the opening and management of the new ambulatory surgical center (specifically the ASC activation) here in Harlingen, Texas. As Dr. Martinez relates "it was clear to me from this conversation that this was to be Dr Krugman's primary function". (Exhibit B-18)

Later, Dr Aguilar attempted to have Dr Martinez review consults from various clinics for referral to private providers. Dr Martinez relates his uncomfortableness of this process (not in the scope of his training). Shortly thereafter, Dr. Martinez ended his relationship with VA and returned to his private practice.

As I arrived into Texas, once again the title started changing. I was to be The Associate Chief of Staff for Ambulatory Care and hold Privileges in Compensation and Pension. I said no. It was not part of any medical training I had and for the convenience of either getting me paid or being given clinical privileges I would not go along with the sham.

Within the first month of my new role as ACOS I found/uncovered/discovered what really was taking place at TVCBHCS. The position of Chief of Staff went to Dr Raul Aguilar, an Internist who was recently the Chief Medical Officer of the McAllen Outpatient Clinic, McAllen, Texas. An outpatient clinic of less than 10 physicians. From what I understood the Chief of Staff resigned rather abruptly and Raul was the Acting Chief of Staff. With no post-graduate education, no experience in managing large groups of physicians or even the basic knowledge of bringing an ASC on line. Dr Aguilar was now the Chief of Staff. He enjoyed this new title and its financial remuneration for many reasons. None of which will be discussed.

As stated on page 13 Report to the Office of Special Counsel it states "Also noteworthy is that the COS of VATVCBHCS is a primary care physician, hence any clinical issues that were beyond the ACOS's capacity could easily and competently judged by the COS. Furthermore, the COS was in the role of CMO of a VA primary care site within the system prior to assuming the role of COS, and therefore was quite familiar with primary care operations.

The first question one might ask is how a primary care physician who is the CMO of less than 10 physicians be promoted to a COS position without any post graduate courses, experience in managing large multi-specialty groups, personally created an arena of disharmony and distrust in his own clinic. Could there have been a different reason why Dr. Raul Aguilar was selected as the new Chief of Staff, when I was already preparing to arrive in Texas? Is this the direction the Veterans Administration would like me to further elaborate? I think not!

In Memo Dated October 14, 2010, approximately one month after I arrived for duty, and after discussing the problems, flaws and mismanagement of the ASC, problems with the clinics not being able to refer patients out to the Fee Basis physicians, and most importantly why there was such animosity from the clinics to administration or more specifically complaints regarding Dr Raul Aguilar

This memo serves to identify delegations of approval for the VATVCBHCS fee consults. Dr Raul Aguilar, Chief of Staff, has granted approving authority of VATVCBHCS fee consults to each of the Chief Medical officers of the VATVCBHCS Satellite clinics and the new ACOS for Primary Care, Dr. Richard Krugman as Identified below:

<u>Outpatient Clinic</u>	<u>Primary</u>	<u>Alternate</u>	<u>2nd Alternate</u>
McAllen	Dr. Daniel Brown	Dr. Richard Krugman	Dr Raul Aguilar
Harlingen	Dr Richard Krugman	Dr. Raul Aguilar	
Laredo	Dr. Richard Krugman	Dr. Raul Aguilar	
Corpus Christie	Dr Estella Silva	Dr. Richard Krugman	Dr. Raul Aguilar

This was retaliation to hurt, embarrass and to find grounds for dismissal. This was a method for VATVCBHCS and especially Dr. Raul Aguilar to find fault and have me discharged. Points that should be made are, I was not clinically approved for patient care, never trained in primary care, and documents stated that as a CEO of multiple companies in multiple states I had no direct patient care for almost 5 years. It should also be noted, that within one month of arriving in Harlingen, Dr. Aguilar gave me the assignment of oversight of all clinics and all consults; an assignment that no other physician was required to undertake, as shown above. Even an internist had only one clinic. But, I, an Anesthesiologist, with no clinical privileges, was responsible for overseeing four clinics with hundreds of consults waiting for review. In fact of point, Dr. Aguilar himself should have been disciplined for creating a situation of inappropriate care for the veterans. Dr. Aguilar, in his resentment and prejudice towards me, endangered the entire VATVCBHCS and it's 40,000 plus patients. [Exhibit B-19]

Another avenue that could be looked at, Dr. Aguilar was considered captain of the ship and he would have been ultimately responsible for all decisions. Either way Dr. Raul Aguilar knowingly put the veteran patients at risk.

Another point we should discuss is the sentence "counseling memos during his period of employment also provided clear details to his responsibilities.

Dr. Aguilar had more than 10 months to create a paper trail. Evidenced of this can be found in documents dated 1-14-11 and 1-7-11. **(Exhibit B-20 through B-22)** Why are there two different dates on the same document? Fortunately, when Dr. Aguilar was creating these documents, he left copies on the administrative copy machine which was given to me by the different secretaries and ancillary people who had found them misplaced in different public places on June 12, 2011. Exactly two days prior to my forced administrative leave.

How do I know these were all produced at a different time then actually stated? On 1-06-11, I was physically attacked in an office at the Harlingen outpatient clinic by Dr. Aguilar. I will repeat this once again and if needed, verification can be supplied; I was physically attacked by Dr. Raul Aguilar in the P.M. of January 06, 2011. This was after accusing him of Fraud Waste and Abuse and giving him examples. I called for an immediate meeting with Mr. Milligan which was set up for a.m. the next morning. After describing Dr. Aguilar's action similar to Captain Qweeg of the Caine Mutiny he apologized for physically attacking me. I would not accept his apology and accused him of being anti-Semitic and resenting my northeastern attitude. Mr. Milligan interrupted and asked what we could do. I requested I wanted to continue my goals here in the VA, but I wanted to be able to go somewhere else, away from this bigoted climate. Following e-mail shows that Mr. Milligan tried to assist me in that venture. [Exhibit B-23]

Another form of retaliation occurred. I had contacted an HR representative for a number of health systems for the possibility of being interviewed for COS. I was told by the HR representative that he was given strict orders not to accept any applications from me and hence I could not go through the application system and be compared to other candidates. I WAS BLACKBALLED OUT OF THE VA. [Exhibit can be produced]

The following are recommendations from the chiefs of the different departments in the VATVCBHCS.

The Castillo e-mail demonstrates that Mr. Castillo valued my interaction and vast knowledge about the ASC and equipment. **(Exhibit B-25 through B-28)**

Dr. Fell's letter of recommendation clearly demonstrates that I made very helpful suggestions in cost reduction for drugs. **[Exhibit B-29]**

Dr. Fieldus' letter of Recommendation clearly demonstrates that I was helpful with the CPRS conversion. **(Exhibit B-30)**

Dr Brown and Dr Lozano were two of my CMO's who reported directly to me. I think their letters speak for themselves. (Exhibit B-31 and B-32)

I do have several more recommendations, but I think these serve to demonstrate a version of the truth that has not been presented to you.

In the e-mail dated 10/11/2011, From Torres, Salomon (District Director, U.S. Rep. Ruben Hinojosa (TX-15) to 'Richard Krugman' :

Richard,

As I mentioned (and as you would expect), VA folks that visited Friday had a different recollection and explanation of two key points – 1) that as Associate Chief of Staff for Primary Care you did not have authority / job duty to asses condition of ambulatory/surgical building and 2) VA did not receive from you concerns about the building until they saw them in writing in our Aug 11, congressional inquiry with your memo attached.

Also I mention to you, Mr. Milligan explained in detail how your performance as Associate Chief of Staff for Primary Care was not Satisfactory (in regards to managing/processing consults).

These points are key for OSC and Anthony, your private attorney, to know.

These were the VA staff present:

Lawrence Biro, VISN Network Director
Jeff Milligan, Former VA Texas Valley Coastal Bend Health Care System Director
Dr. Raul Aguiar, Chief of Staff VATVCBHCS
Froy Garza, Congressional Affairs Liaison, Harlingen

And Via videoconference fro D.C.:

William Schoenhard, Deputy under Secretary for Health for Operations and Management, Veterans Health Administration. (Exhibit B-10 and B-11)

By focusing on this line, the TVCBHCS hoped that there would be no further investigation to what was occurring down in Rio Grande Valley, Texas.

This scenario clearly indicates fraud waste and abuse. I was recruited for and believed I was being hired to make this facility operational and efficient. I was moved to Harlingen at significant government expense and paid a great deal of money to perform duties I was not qualified, by either experience or certification, to perform. Instead of me performing the service I was hired for, the project was allowed to languish and the result is the inoperable facility that still exists today.

List of Supporting Documentation

- B-1 Special Counsel Commends MSPB Study on Whistle Blowers
- B-2 Protection from Reprisal for Whistle Blowers
- B-3 Tentative Offer, ACOS for VATVCBHCS
- B-4 Continuation of B-3
- B-5 Board Action
- B-6 Compensation Panel Action ACOS Ambulatory Care
- B-7 5-Part-50 09/12/10 ACOS Ambulatory Care
- B-8 5-Part-50 10/22/10 ACOS Ambulatory Care
- B-9 5-Part-50 04/14/12 ACOS Ambulatory Care
- B-10 Invitation to go to Congressman Hinojosa's office to discuss owed money to STHS
- B-11 Blatant lies to Washington, DC from the Congressman's office
- B-12—B-14 Les Cook Memorandum for Dr Krugman Credentialing
- B-15 HR recruiter Kevin Buccola regarding COS position
- B-16, B17 Dr Alan Dinesman, Service Chief of Compensation & Pension
- B-18 Recommendation – Dr. Daniel Martinez
- B-19 Delegation of Authority to Authorize VATVCBHCS fee consults
- B-20 Falsified expectations of Dr Krugman
- B-21, B-22 Falsified expectations of Dr Krugman
- B-23 E-mail from Mr. Milligan, helping to relocate
- B-24 Recommendation – Dr Daniel Martinez
- B-25—B-28 The Castillo e-mail demonstrates that Mr. Castillo valued my interaction and vast knowledge about the ASC and equipment

- B-29 Dr Fell's letter of recommendation
- B-30 Dr Fieldus' letter of recommendation
- B-31 Dr Daniel Brown's recommendation
- B-32 Dr Robert Lozano's recommendation



U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

Special Counsel Commends MSPB Study on Whistleblowing

CONTACT: Ann O'Hanlon, (202) 254-3631; aohanlon@osc.gov

WASHINGTON, D.C./Nov. 22, 2011 –

Federal employees reporting waste, fraud and abuse routinely face retaliation and must be protected from it in order for the government to function at its best. Special Counsel Carolyn Lerner commends the new report from the Merit System Protection Board which highlights this reality: *Blowing the Whistle: Barriers to Federal Employees Making Disclosures*.

According to the report, approximately one-third of the individuals who believed they had been identified as a source of a report of wrongdoing perceived either threats or acts of reprisal, or both. In addition, the report found an increase in the percentage of employees aware of waste caused by a badly managed program and a significant increase in the number of employees who observed acts of wrongdoing that would cost more than \$100,000. Lerner said, "With the government facing a fiscal crisis, OSC's role to protect whistleblowers has never been more important."

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing. For more information, please visit our website at www.osc.gov.

Department of
Veterans Affairs

Memorandum

Date: February 13, 2012

From: Secretary (00)

Subj: Protection from Reprisal for Whistleblowing

To: To All Employees

1. I want to reiterate and reaffirm VA's commitment to whistleblower protection and creating an environment in which employees feel free to voice their legitimate concerns without fear of reprisal. There are several avenues of redress available for employees to address reprisal for whistleblowing, including reporting it to VA's Office of Inspector General, your local Congressional representative, Merit Systems Protection Board, and the Office of Special Counsel. A summary of these venues and contact information is attached.

2. It is a prohibited personnel practice for an agency to subject an employee to a personnel action if the action is threatened, proposed, taken, or not taken because of whistleblowing activities. Whistleblowing means disclosing information that the employee reasonably believes is evidence of a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. An employee is protected if he/she makes such a disclosure to the Special Counsel or the Inspector General. Additionally, an employee is protected if he/she makes such a disclosure to any other individual or organization, such as a Congressional Committee or the media, provided that the disclosure is not specifically prohibited by law.

3. Protecting employee rights is a statutory obligation. Managers and supervisors have a responsibility and will be held accountable for enforcing standards of appropriate workplace behavior, and are expected to take prompt action to deal with any conduct identified as reprisal based on whistleblowing. This includes the taking of appropriate disciplinary action, ranging from a 10-day suspension to removal in accordance with the Agency's Table of Penalties, when the circumstances warrant.

4. I encourage each of you to familiarize yourself with this information and I remind every manager of this Department's responsibility to maintain a workplace that respects its employee's ability and right to raise legitimate concerns without fear of retribution.

5. If you have questions regarding this subject, please contact Tonya Deanes, Deputy Assistant Secretary for Human Resources Management, at (202) 461-7765.



Eric K. Shinseki

Attachment

Richard Krugman

From: Cordova, Barbara J. [Barbara.Cordova@va.gov]
Sent: Wednesday, August 04, 2010 2:32 PM
To: Rkrugman@pma-fl.com
Cc: Alamilla, Maria; Aguiar, Raul; Erwin, Jerry A.; Garcia, Jessica; Lopez-Rivera, Leonardo; Guerard, Jonathan D.; Lockamy, Jeffrey T.
Subject: Tentative Job Offer: Associate Chief of Staff, VA Valley Coastal Bend Health Care System Harlingen TX
Follow Up Flag: Follow up
Flag Status: Red
Attachments: of0306.pdf; vha-10-2850-fill.pdf

Dr. Krugman,

I would like to extend my congratulations as you have been selected to fill the Permanent position of as Associate Chief of Staff, for VA TX Valley Coastal Bend Health Care System (VCBHCS), located in Harlingen, TX.

The starting salary, approved through Compensation Panel Action by the VCB director is:

Base :\$97,987
Market: \$137,013
Base + Market: \$235,000

Recruitment incentive: \$58,750 (2yr service agreement)

Total Compensation Package = \$293,750.

Please reply to all if you accept this tentative offer, and we will continue the hiring process.

About VA Texas Valley Coastal Bend Health Care System (TVCBHCS): VA Texas Valley Coastal Bend Health Care System is committed to providing the best care to Veterans of the Valley Coastal Bend and Border area! Be a part of the future, serving the newest VA health care system in the country. The new health care system is comprised of the **Corpus Christi, Harlingen, McAllen and Laredo** Outpatient Clinics, and a future, state-of-the-art Ambulatory Surgery and Specialty Outpatient Center in Harlingen. Be a part of providing the highest quality and access to health care for all South Texas Veterans right here at home!

Visit http://www4.va.gov/JOBS/Job_Benefits/benefits.asp to find out More About VA Job Benefits, such as Health, Retirement and Leave benefits.

You may participate in the Federal Employees Health Benefits program, with costs shared with your employer. More info: <http://www.usajobs.gov/jobextrainfo.asp#FEHB>.

Life insurance coverage is provided. More info: <http://www.usajobs.gov/jobextrainfo.asp#life>

Long-Term Care Insurance is offered and carries into your retirement. More info: <http://www.usajobs.gov/jobextrainfo.asp#ltci>

New employees are automatically covered by the Federal Employees Retirement System (FERS). If you are transferring from another agency and covered by CSRS, you may continue in this program. More info: <http://www.usajobs.gov/jobextrainfo.asp#retr>

7/17/2011

B-3

You will earn annual vacation leave. More info: <http://www.usajobs.gov/jobextrainfo.asp#VACA>

You will earn sick leave. More info: <http://www.usajobs.gov/jobextrainfo.asp#SKLV>

You will be paid for federal holidays that fall within your regularly scheduled tour of duty. More info: <http://www.usajobs.gov/jobextrainfo.asp#HOLI>

You can use Health Care Flexible Spending Accounts for expenses that are tax-deductible, but not reimbursed by any other source, including out-of-pocket expenses and non-covered benefits under their FEHB plans. More Info: <http://www.usajobs.gov/jobextrainfo.asp#FSA>

If you wish to proceed with your hiring process please complete and return the following forms.

VHA 10-2850 Application for Physicians, Dentists, Podiatrists, Optometrists and Chiropractors.
OF-306, "Declaration for Federal Employment

This **is not** considered a firm job offer; **Pre-employment criteria is required** prior to firm offer.

- **Must be a United States Citizen**
- **Must successfully complete background investigation and fingerprints clearance.**
- **Pre-employment Physical**
- **Must complete Professional Standards Board (PSB) Credentialing/Vet Pro (Please note: due to the establishment of the new VCB Health Care System to stand up 01-Oct-2010, Professional Standards Board (PSB) Certification process will be required initially through STX Health Care System, San Antonio and again under the new Valley Coastal Bend Health Care System).**

Please, DO NOT make any commitments based upon this email notification.

We look forward to having as a VCB Team Member; providing the best care to Veterans of the Valley Coastal Bend and Border area!

Please evaluate the services you received from Human Resources Management Services by clicking this link:



[Human Resources Customer Service Survey](#)

Barbara J. Cordova

Human Resource Specialist

VA TX Valley Coastal Bend Health Care System

STVHCS, HRMS (05B), Room Q113.4

7400 Merton Minter Blvd.

San Antonio, Texas 78229-4404

Phone: 210.617.5133 ext 14941

Fax (210)949 3372

email: Barbara.Cordova@va.gov

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3050 - Release Date: 08/04/10 00:45:00

7/17/2011

B-4



BOARD ACTION

INSTRUCTIONS — Prepare an copy for Field Station and one copy for Central Office for all employees for whom Board Action is forwarded to Central Office for review of filing in Board Action Folder.

1. EMPLOYEE/APPLICANT'S NAME Richard Krugman, M.D.	1A. EMPLOYEE'S POSITION	1B. EMPLOYEE'S GRADE AND STEP	1C. NAME OF STATION Texas VCB HCS
---	-------------------------	-------------------------------	--------------------------------------

INITIATING BOARD

2. NAME OF BOARD (Check one) <input checked="" type="checkbox"/> PROF. STD. BOARD <input type="checkbox"/> DISCI. PLINARY <input type="checkbox"/> PHYSICAL STANDARDS	3. STATION OF BOARD Texas Valley Coastal Bend Health Care System	4. DATE
--	---	---------

5. FINDINGS

The Professional Standards Board met to consider the appointment of Richard Krugman, M.D., Medical Staff appointment and Privileges at the Texas Valley Coastal Bend Health Care System. Board findings are as follows:

CITIZENSHIP: USA

MEDICAL EDUCATION: MD, 12/1980, Universidad Autonoma de Guadalajara, Mexico
MD, 06/1984, State University of New York @ Stony Brook

ECFMG: N/A

INTERNSHIP/ RESIDENCY Internal Medicine, Fifth Pathway, SUNY @ Stony Brook, Jul 1983 – Jun 1984
Pediatrics, Mt. School of Medicine at Elmhurst Hospital, Jul 1984 – Jun 1985
Anesthesiology, Hahnemann University Hospital, Jul 1985 – Jun 1988

FELLOWSHIP: Anesthesiology, Hahnemann University Hospital, Jul 1988 – Jun 1989
Anesthesiology, Duke University School of Medicine, Jul 1989 – Apr 1990

BOARD CERTIFICATION: Anesthesiology, indefinite

CURRENT LICENSURE: California A052843 Expires: Jun 30, 2011
Florida ME54446 Expires: Jan 31, 2011

PROFESSIONAL EXPERIENCE:

Jan 1981 – Jun 1983	Self-employed	New York
Apr 1990 – Jul 1990	Unemployed	Florida
Jul 1990- Jun 1991	Surgical Center of Boca Raton	Boca Raton, FL
Jun 1990 – Jun 2006	Vanguard	Boca Raton, FL
Jul 2006 – Aug 2010	Retired	Boca Raton, FL
Sep 2010 - current	S. Texas VA Health Care System	San Antonio, TX

B-5



NAME		LAST 4 DIGITS OF SSN	DATE
Richard S. Krugman			Jul 26, 2010
SERVICE/LOCATION	ASSIGNMENT	CURRENT TIER	ANNUAL SALARY
Ambulatory Care/Harlingen	ACOS Ambulatory Care	NA	NA

PART A - REASON FOR COMPENSATION PANEL REVIEW

Initial Pay Determination <input checked="" type="radio"/>	Biennial Review <input type="radio"/>	Other (explain below) <input type="radio"/>
--	---------------------------------------	---

Recruit ACOS for full time ACOS for Ambulatory Care.

SUPERVISOR'S APPROVAL (Print name below)	SIGNATURE	DATE
RAUL A. AGUILAR, Chief of Staff		

PARTS B AND C TO BE COMPLETED BY COMPENSATION PANEL AND APPROVING OFFICIAL

PART B - PANEL FINDINGS

Consideration of the Panel shall take into account the (1) level of experience in a specialty or assignment; (2) need for the specialty/assignment at the facility; (3) health care labor market for the specialty/assignment; (4) board certifications; (5) accomplishments in the specialty or assignment; (6) prior VHA experience; (7) other considerations/comments; and (8) non-foreign cost-of-living allowance.

1. MD, Univ Autonoma of Guadalajara, MX, 1976-1980. MD, State Univ of NY - Stony Brook, after completing Fifth Pathway Program, 1983-1984. Fellow Pain Mgmt, Duke Univ MC, NC, 1989-1990. Fellow Cardiothoracic Anesthesia, Hanhmann Univ Hosp, PA, 1988-1989. Anesthesia Resident, Hanhmann Univ Hosp, PA, 1985-1988.

2. We are establishing a full-time ACOS for Ambulatory Care to oversee and to collaborate in the implementation of the VA Texas Valley Coastal Bend Health Care System (VATVCBHCS). If we do not fill this position we will not have appropriate oversight to establish and maintain an effective health care system. If not recruited for, this position will negatively impact patient care. Additionally the position has been difficult to recruit for the last 9 months.

3. The labor market for Internal Medicine in this remote location remains competitive. There is a lack of academic affiliation opportunity and therefore competition rests with private labor markets. The Western Region for Sullivan Cotter survey 2008 is a median of \$205K. HHCS 2008 Region 7 has an average for Primary Care at an average of \$165K, and a 50th percentile at \$162K. AAMC may not apply here as the academic opportunities are lacking as noted. AAMC 50th percentile Instructor is \$144 for Internal Medicine.

4. Board Certification: Diplomate of the American Board of Pain Management.

5. CEO/COO, Premier Medical Alliance, Inc., FL, 2006-Present. CEO/COO, Vanguard Anesthesia Assc, FL, 1990-2006. COO/Dir of Physician Development/Reg Med Dir, Vanguard Med Assc, FL, 1990-2006. CEO, Vanguard Corp of Amer, FL, 1990-2006. Dir Dept of Pain Mgmt, Surg Ctr of Boca Raton, 1990-1991.

6. No prior VA experience.

7. Dr. Krugman has been invited to share his expertise at numerous lectures. Dr. Krugman demonstrates leadership qualities by serving as the CEO/COO for his own company for many years. He also very active in the community.

B-6

Richard Krugman

From: Torres, Salomon [Salomon.Torres@mail.house.gov]
Sent: Wednesday, October 05, 2011 11:17 AM
To: 'Richard Krugman'
Cc: 'Anthony Walluk'; 'doug.matney@uhsrgv.com'; 'Godinez, Roxanna'
Subject: RE: The total amount outstanding and owed to South Texas Health System

Richard,
 Plz come see me at my office at 3 or 4 today. Jeff Milligan, Lawrence Biro coming to see me this Friday a.m. to discuss matters. VA staff from DC will participate via videoconference. I want to run by you the key questions/points I need to raise/emphasize. Focus of discussion will be the status of Ambulatory/Surgical Center, state of VA medical personnel hired and their morale, customer service, trips to San Antonio, use of our veteran patients for fellows in San Antonio, etc.

Unpaid bills to hospital contractors. I will bring up but not as a complaint from hospitals. Don't want to jeopardize their standing with VA. I'm sure Milligan/Biro will point finger back to the hospitals to explain why such large bills remain unpaid.

Unlikely that your employment will come up, but don't know for sure. Behind such closed doors I might bring up.

I'm sure will be tense, so I need your help to get ready.

Tomorrow Thursday not good to meet - will be at a conference all day in Brownsville.

Appt with VA was just set this a.m. Plz let me know.

Salomon Torres
 District Director
 U.S. Rep. Ruben Hinojosa (TX-15)
 2864 W. Trenton Rd.
 Edinburg, TX 78539
 956-682-5545 tel
 956-682-0141 fax
 salomon.torres@mail.house.gov

From: Richard Krugman [mailto:rkrugman@pma-fl.com]
Sent: Wednesday, October 05, 2011 11:06 AM
To: Torres, Salomon; 'Anthony Walluk'
Cc: 'Gorman, Karen'; 'Holt, Sarah'; sthomas@osc.gov
Subject: FW: The total amount outstanding and owed to South Texas Health System

Most recent response from South Texas Health System. Could wait for Valley Baptist but would be pretty similar.

Hopefully this helps. This is why the private sector is no longer getting involved with the VA patients. Any groups smaller would

B-10

Richard Krugman

From: Torres, Salomon [Salomon.Torres@mail.house.gov]
Sent: Tuesday, October 11, 2011 1:31 PM
To: 'Richard Krugman'
Cc: 'Holt, Sarah'; 'Gorman, Karen'; sthomas@osc.gov; 'Anthony Walluk'
Subject: RE: References.pdf - Adobe Reader

Richard,

As I mentioned (and as you would expect), VA folks that visited Friday had a different recollection and explanation of two key points - 1) that as Associate Chief of Staff for Primary Care you did not have authority/job duty to assess condition of ambulatory/surgical building and 2) VA did not receive from you concerns about the building until they saw them in writing in our Aug. 11 congressional inquiry with your memo attached.

Also, as I mentioned to you, Mr. Milligan explained in detail how your performance as Associate Chief of Staff for Primary Care was not satisfactory (in regards to managing/processing consults).

These points are key for OSC and Anthony, your private attorney, to know.

These were the VA staff present:

Lawrence Biro, VISN Network Director

Jeff Milligan, former VA Texas Valley Coastal Bend Health Care System Director (now Director of the VA North Texas Health Care System)

Dr. Raul Aguilar, Chief of Staff, VA Texas Valley Coastal Bend Health Care System

Froy Garza, Congressional Affairs Liaison, Harlingen

And via videoconference from D.C.:

William Schoenhard, Deputy Under Secretary for Health for Operations and Management, Veterans Health Administration

Richard,

I have to correct one statement in your email ("by even your own admission, Dr. Aguilar despised me and Mr. Milligan could not control him"). I simply speculated that perhaps Dr. Aguilar simply did not like you.

That was pure speculation as you and I spoke and wondered about why this had happened to you and to try to explain Dr. Aguilar's conduct toward you. Plz make that note because I did not make such a statement as you state.

Salomon Torres
District Director
U.S. Rep. Ruben Hinojosa (TX-15)
2864 W. Trenton Rd.

7/8/2012

B-11

Department of
Veterans Affairs

Memorandum

Date: June 30, 2011

From: Les Cook, CPCS

Subj: Memorandum for Record Dr Krugman Credentialing

On July 28, 2010, I received a request from Marissa Alarnilla, AO to the Chief of Staff at Valley Coastal Bend, to start the credentialing and Privileging Process for Dr Richard Krugman. At the time, Valley Coastal Bend was part of the South Texas Veterans Healthcare System. As such we were responsible for the credentialing and Privileging of all Licensed Independent Practitioners that were being staffed in the Valley.

Marissa asked me to rush his application for medical staff appointment because Dr Krugman was needed to assist with the planning and functional design of the Ambulatory Surgical Center (ASC) in the Valley. She said that Dr Krugman was being placed in the Associate Chief of Staff (ACOS) for Ambulatory Care position because they did not have a position in existence for anyone to help build the ASC by ordering the equipment and designing work flow. Dr Aguilar, Chief of Staff at Valley Coastal Bend, later verbally reinforced this need to rush because of the help they needed with the ASC and Dr Krugman's particular expertise in getting facilities like this up and running. He also said Dr Krugman needed to be in an ACOS position in order to justify the pay offer that was going to be needed in order to recruit him to the Valley.

Since Dr Krugman was being placed in the position as an ACOS for Ambulatory Care, I sent him the Primary Care privilege delineation form. However, in speaking with Dr Krugman, I discovered that he was an anesthesiologist by training and had no experience in Primary Care. Further, Dr Krugman had not done any anesthesia patient care in the recent year because of his duties as CEO of multiple companies in multiple states, which meant that it would be difficult to show evidence of current competence in patient care anesthesia.

I discussed this at length with Dr Aguilar and Marissa. I suggested that since Dr Krugman was an anesthesiologist, we could process a request for anesthesia privileges, with a provision for proctoring or a period of supervision. Dr Aguilar decided instead to send him the privilege form for Compensation and Pension (C&P) because "it is easy to justify C&P privileges" and they really only needed him on staff to work with getting the ASC up and running. I complied with Dr Aguilar's decision and sent Dr Krugman the C&P form on Aug 6, 2010.

I also pointed out to Dr Aguilar and Marissa that Dr Krugman was not technically qualified to be the "Service Chief" for Ambulatory Care because he was not board certified in that specialty, or have comparable qualifications, per VA Handbook 1100.19, 5, f, (1), (a)¹. I advised that while this did not preclude him from being ACOS for Ambulatory Care, he should not be acting as a Service Chief for the purpose of reviewing Primary Care physicians' application for medical staff appointment and privileges.

B-12

and a CEO for an anesthesia staffing agency, he was ill equipped to make decisions regarding Primary Care patient treatment. As a matter of fact, in the VA's eyes, C&P privileges are not considered patent care privileges and only allows for exams that are the equivalent of an insurance assessment. Treatment plans, diagnosing and prescribing are not permitted under these privileges (See VA memo dated Sept 15, 2010, signed by the Deputy Under Secretary for Health for Operations and Management which specified that C&P "examiners provider NO medical care"). But this was Dr Aguilar's decision.

I explained to Dr Krugman what Dr Aguilar had decided and sent him the C&P form. Dr Krugman was compliant with Dr Aguilar's wishes and told me that he would do whatever Dr Aguilar asked because Dr Aguilar had made it clear that he was really there to get the ASC up and running. So, he returned the completed C&P privilege request form.

Dr Krugman's application was completed and Dr Aguilar recommended approval of C&P privileges on Aug 30, 2010. He then presented the application to the Professional Standards Board on Aug 31, 2010. The application was subsequently approved by the director.

//Signed//
Les Cook, CPCS
Program Specialist, Credentialing and Privileging
South Texas Veterans Health Care System

f. Verifying Specialty Certification

(1) Physician Service Chiefs

(a) Physician service chiefs must be certified by an appropriate specialty board or possess comparable competence. For candidates not board-certified, or board certified in a specialty(ies) not appropriate for the assignment, the medical staff's Executive Committee affirmatively establishes and documents, through the privilege delineation process, that the person possesses comparable competence. If the service chief is not board certified, the Credentialing and Privileging file must contain documentation that the individual has been determined to be equally qualified based on experience and provider specific data. Appointment of service chiefs without board certification must comply with the VHA policy for these appointments as appropriate.

B-11-

Krugman, Richard

From: rkrugman@pma-fl.com
Sent: Friday, January 21, 2011 9:22 AM
To: Krugman, Richard
Subject: Fw: Timeline info
Attachments: FW: ACOS Position; RE: Names of Chief of Departments /Service Chiefs

Sent via BlackBerry by AT&T

From: "Cook, Leslie" <Leslie.Cook2@va.gov>
Date: Fri, 21 Jan 2011 09:16:19 -0600
To: <rkrugman@pma-fl.com>
Subject: Timeline info

I received a request from Marissa Alamilla on 7/28/2010 naming him as ACOS for Primary Care.

After reviewing Dr. Krugman's CV, I noticed that he didn't have any training or experience in Primary Care. That is problematic in that if he were to be acting as a Primary Care Service Chief, he would need to be Board certified or board eligible (to use an outdated term) in the specialty of Primary Care for the purposes of recommending approval of privileges, according to VA handbook 1100.19. Marissa and Dr Aguilar indicated in a phone call that Dr Krugman was actually being hired for his expertise in setting up new clinics. But they needed to fit him in a currently open slot in order to do that.

We also discussed that all of Dr. Krugman's training was in Anesthesiology, but he had not been in direct patient care recent because of his recent retirement and the fact that previously, he was the CEO of his company. I suggested that he be evaluated for anesthesiology privileges, but if approved, have a detailed FPPE or a period of proctoring. But, instead, Dr. Aguilar asked me to send him the Compensation and Pension Privileges because those were easy to justify approval of. Dr. Aguilar indicated that it didn't matter what privileges he held, because he was coming to be utilized in a capacity to help get the new Surgical Center up and running.

Email dated 8/4/2010 to Marissa Alamilla and Raul Aguilar. CC'd to Anna Valdez and Deborah Ortis
"Good morning,

I got the application packet out to Dr Krugman today after a morning meeting here.

One thing I noticed when reviewing his CV and after speaking with him on the phone was that he has not had any clinical care experience for several years (been solely in administration and did not hold privileges). Because of that, I do not expect to be able to show documentation of current clinical competence. We should start thinking sooner, rather than later, of how we are going to address that either in FPPE or with some sort of proctoring plan. I think Deb Ortis has some specific expertise in this area and will be able to offer good advice.

In the mean time, we haven't even gotten the privilege delineation request back from him yet. I just want us to be proactive in addressing rather than trying to come up with something at the board.

Let me know if I can help."

Dr Krugman Completed the Medical Staff Application in VetPro on Aug 6, 2010 and was awarded a medical staff appointment on Sept 8, 2010 with privileges in Compensation and Pension.

B-14

Richard Krugman

From: Buccola, Kevin (HRRO) [Kevin.Buccola@va.gov]

Sent: Thursday, June 30, 2011 8:00 AM

To: rkrugman@pma-fl.com

On Jan 8, 2010 I received an email from Dr. Krugman asking questions about the Chief of Staff position in Harlingen Texas. I was the recruiter assigned to assist in the advertising and recruitment for the new facility. We talked about the location and position. Dr. Krugman then forwarded me a copy of his Curriculum Vitae (CV) and I proceeded to complete his license and certification verifications. I then forwarded his application to Human Resources, Mrs. Cordova letting her know that Dr. Krugman was applying to the Chief of Staff position. She then forwarded the application to Mr. Milligan, Director of Harlingen VA.

I was informed later the Dr. Krugman has been selected for the position and was starting in September 2010. I was under the assumption that it was the Chief of Staff position. I was then informed that Dr. Aguilar was selected as the Chief of Staff temporarily and Dr. Krugman was the Associate Chief of Staff (ACOS) until Dr Aguilar left. As time went by I was informed again the Dr. Aguilar decided to stay and then Dr. Krugman was staying in the position of ACOS.

I contacted Mrs. Cordova and find out what had happened and all she could tell me was the Dr. Aguilar decided to stay for at least 3 years.

For professional reasons Dr. Krugman then contacted me to begin searching for other Chief of Staff positions within the VA Healthcare System. Since I have forwarded his application to several locations to help him find the Chief of Staff position he deserves.

Kevin Buccola
National Healthcare Recruitment Consultant
Healthcare Retention & Recruitment Office
South Central Region VISN 16
1555 Poydras St, Suite 1971
New Orleans, La. 70112
O/P 504-565-4853
Fax 504-565-4909

Connect with VA Careers:

6/29/2012

B-15

From: Dinesman, Alan H.
Sent: Thursday, December 30, 2010 4:50 PM
To: Aguilar, Raul; Alamilla, Maria
Cc: Silva, Estrella ; Mikanowicz, Jessie A.; Ramirez, Deborah ; Crawford-Robinson, Nona; Ramirez, Deborah ; Krugman, Richard; Scoggins, Victoria R.; Muncey, Sarah J.; Reed, Judith D.; Melgoza, Victor; Boyd, Teresa D.; Flynn, Julianne; Patel, Preeti
Subject: RE: C&P training

Raul and Marisa,

It was very much a pleasure to work with Dr. Melgoza. I was very impressed with how quickly he learned as much of the C&P examination process as he did in such a short period of time.

I do want to share some information that I feel is important to take into consideration as Valley Coastal Bend proceeds with setting up its C&P process. C&P is very different now from what it was in 2009 when Marisa left the San Antonio C&P program in San Antonio. There are multiple new programs in place, not just IDES (which is its own separate issue). These differ not only in their clinical approach, but are also very different from an administrative process. These include such issues as the Nehmer cases, BDD, and quick start cases, and a new express process that Regional Office is starting up, and not to mention the Homeless C&P claims, and even the soon to be required use of ICD9 codes in C&P exams and the DBQ exam process.

I have attached the OIG report that was released in March 2010 as I think it is informative in understanding what has been identified as issue in the C&P exam process as it has been done in the past. The C&P process has evolved and become more complex. One indicator of the complexity of C&P is that there is currently "talk" that C&P will be its own unique product line nationally in 2011. Another important note is on page 10 of the OIG report: "Local VHA personnel reported that it can take up to one year to hire, privilege, credential and train a provider to conduct C&P medical exams".

As a result of what sounds like a lack of full understanding of the intricacies of the C&P exam process, some people in the past thought that you could take a seasoned general medical physician and have them take the CPEP certification exam and then within a week or two they were "fully trained" to do C&P exams. This unfortunately is far from true. My personal experience with new clinicians is the pattern of after one month feeling like they understand, in the second month realizing that they don't, in the third month frustration with the process, and by 6 months the beginnings of some confidence. I have a physician I hired over a year ago who was in private practice for many years, followed by nearly a decade in the VA system. He has likened his experience in C&P as being similar to doing another internship. It is not the medical components that are unique, it is the medico-legal aspect and its intricacies that are new and foreign to most clinicians. Please understand that Dr. Melgoza is now at the 1 month mark, or slightly less. He will very likely find the next several months to a year, or more, a challenge. Also, given the sheer volume of information relayed to him to learn about the C&P exam process, he has had only very limited exposure to the administrative side of the C&P exam process. I have let him know that since there is no experienced C&P clinical staff at VCB, he is welcome to call me, or my staff, with questions.

B-6

I have been told that you will be using QTC for a significant number of exams. Please see in the attached report that QTC's requirements are different than the VA C&P's. Also of note is that QTC has essentially limited what exams they are willing and contracted to do. For example, they will not do the Gulf War Protocol exams which is one of the most complex exams in the system and poses a significant challenge in understanding to both VBA and C&P. These have been complicated enough where I have personally had to contact a lawyer on the Veteran's Board of Appeals that serves on the National CPEP Clinical Advisory Board with me in order to understand a variety of issues with Gulf War exams (These are not the Gulf War registry exams, this is a totally separate AMIE C&P exam template).

When I worked with QTC for 1.5 years prior to coming to C&P, they very rarely did opinions. In fact, in that year and a half, I physically saw only one C-file. It is my understanding that they are now doing some opinions, but it seems to me that we (C&P) are getting the far majority. In fact, there is rarely a week that goes by that we don't get several 2507 exam requests stating that an exam was done by QTC and now an opinion is requested. There are also several conditions, such as sleep apnea, that QTC will not evaluate. Since sleep apnea is currently being rated as a 50% service connection, it is a very commonly claimed condition. So as you can see, QTC will help with the straight forward type claims, however, the most complicated issues will be sent to C&P. In fact, QTC cannot do Appeals nor Remands, which can be complicated, time consuming and confusing. Please note also that for 2011 the contractors received only 1 year contracts, whereas in years past it is my understanding they were for 3 to 5 years. This, along with the release of DBQ's which are supposed to be possible to be filled out by the primary care physicians both inside and outside of the VA, suggest that the use of contractors may be limited in years to come. With this in mind, please give careful consideration to the discussion in the attached OIG report about C&P programs not providing sufficient clinical and administrative staff for their stations.

I am more than happy to answer any questions that may arise about the C&P process. If I am unable to answer them personally, I will hopefully be able to direct you to someone who can. Please don't hesitate to contact me if I can be of assistance. I am assuming from the e-mail below that Dr. Melgoza will not be returning to San Antonio in January, nor after that. If this is not the case, please let me or Jessie Mikanowicz know so we can make arrangements for appropriate clinic accommodations. We have outgrown our current clinic location, and want to make sure that we have a room for him to do exams if so desired.

Hope everyone has a wonderful New Years, and looking forward to a great 2011.

Alan

Alan H. Dinesman, MD
Service Chief, Compensation and Pension
Frank Tejeda Outpatient Clinic
San Antonio, Texas
210-699-2194
210-365-0032 (cell)

B-17

Daniel Martinez, M.D. P.A.
Daniel Martinez M.D.
Board Certified - Cardiothoracic, Vascular & General Surgery

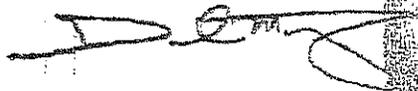
November 4, 2011

To Whom It May Concern:

Prior to my official arrival at Texas Coastal Bend Veteran's Health System I was advised by the Chief of Staff, Dr Raul Aguilar that Dr Richard Krugman was going to be on board assisting with the opening and management of the new ambulatory surgical center (specifically the ASC activation) here in Harlingen, Texas. It is clear from this discussion that this was to be Dr Krugman's primary function. The time that Dr Krugman was early November 2011 when he conducted a tour for me and several other staff members of the ASC (Dr Wendell Jones and Dr Charles Buckley from VISN included) during this time some deficiencies in the ASC were identified and discussed such the practicality of having glass doors in the room.

Later, Dr Aguilar attempted to have me review questions from various clinics for referral to private providers. I did not feel comfortable as a surgeon reviewing internal medicine consults and discussed the matter with him. Since that time he told me that he and Dr Krugman would be reviewing these consults together in a joint project.

Sincerely,



Daniel Martinez, M.D.

B-18

Department of
Veterans Affairs

Memorandum

Date: October 14, 2010

From: VATVCBHCS Chief of Staff

Subj: Delegation of Authority to Authorize VATVCBHCS FEE Consults

To: Chief Medical Administration/Business Office (136)

Thru: STVHCS Chief of Staff (11)

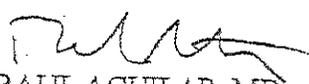
Thru: STVHCS Deputy Chief of Staff (11)

1. This memo serves to identify delegations of approval authority for the VA Texas Valley Coastal Bend Health Care System (VATVCBHCS) fee consults. Dr. Raul Aguilar, Chief of Staff, has granted approving authority of VATVCBHCS fee consults to each of the Chief Medical Officers of the VATVCBHCS Satellite Clinics and the new ACOS for Primary Care, Dr. Richard Krugman as identified below:

<u>Outpatient Clinic</u>	<u>Primary</u>	<u>Alternate</u>	<u>2nd Alternate</u>
Mc Allen	Dr. Daniel Brown	Dr. Richard Krugman	Dr. Raul Aguilar
Harlingen	Dr. Richard Krugman	Dr. Raul Aguilar	
Laredo	Dr. Richard Krugman	Dr. Raul Aguilar	
Corpus Christi	Dr. Estrella Silva	Dr. Richard Krugman	Dr. Raul Aguilar

2. Please contact Marisa Alamilla, Administrative Officer to the Chief of Staff, extension 63931, if further information is required.

Thank you,


RAUL AGUILAR, MD

1. Summary of conversation with Dr Krugman 1-7-11 0730 COS Office at his request and 0930 Director and COS
2. Will perform anesthesia in an operating room unknown location on his own time through a physician with a wife who has an endowment fund after he makes a contribution to provide with data about his competency after his proctoring or observation by the above mentioned anesthesiologist
3. Threatened director and chief of staff with firing from higher-up
4. Stated will not follow chain of command and will go to higher ups. Claims his requests will be handled from Washington DC
5. Claimed anti-semitism on my behalf
6. Claims he has anesthesia privileges in ALMMVH
7. Claims Dr Julie Flynn and MS Weldon are involved in granting him anesthesia privileges
8. Claims his Comp and Pen privileges will be discontinued in the future per ALMMVH director
9. Claims that COS has denied him anesthesia privileges
10. Requested internal medicine privileges for LOPC for History and Physical without prescribing medications in the next two weeks
11. Inquired whether he had consulted Dr James Rogers Chief of Anesthesia at ALMMVH regarding observation or proctoring and admitted he had not contacted Dr Rogers
12. Requested limited privileges in anesthesia that would not require his intervention for anesthesia emergencies but would let him provide oversight. Requested clarification if he would cover Desai the proposed anesthesiologist pending recruitment and he stated he would not be able to cover her in her absence.
13. Claims 15 deficiencies in ASC that may be trouble spots but would not share them. Requested he share concerns with Dr Daniel Martinez and he declined.
14. Claims he cannot work with me.
15. He stated he will remain here in the clinic until he finds another position and the director and myself are not to hassle him or he will be escorted into the building with his attorney.
16. At the conclusion, I clarified my expectations of Dr Krugman as ACOS-AC

Paul Aguilar MD

Chief of Staff

A Texas Valley Coastal Bend Health Care System

Meeting with Dr Richard Krugman MD ACOS-PC for VA Texas Valley Coastal Bend Health Care System (VATVCBHCS) 1-14-11 0730. During the meeting, I had a concern that you are not realizing the extent of your responsibilities. Therefore, I am communicating the following expectations so as to remove any misunderstanding on your current position

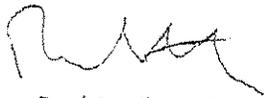
Expectations of performance for ACOS – PC

1. Implementation of Patient Aligned Care Teams in VATVCBHCS by across all primary care clinics in the HCS meeting suspenses to the VISN and regular reporting to the Director on progress in implementation
2. Reduction of the number of fee authorizations by 10% in FY 2011 with close monthly monitoring
3. Implementation of cost reductions in pharmacy costs by the end of FY 2011 with close monitoring in conjunction with pharmacy. Target was set at ~ \$ 380,000 for FY 2011.
4. Action plan for improvement in Clinical Reminders in all clinics to attain expected targets meeting or exceeding all targets. Action plan and progress reports to improve targets in female veteran LDL measures, diabetic retinal screening and breast cancer screening with mammograms
5. Development of Ongoing Professional Practice Evaluation and Focused Professional Practice Evaluations for Primary Care (already completed) with action plan to report to the Professional Standards Board and Clinical Executive Board in April and September of the fiscal years
6. Implement action plan to improve vesting numbers to meet target of 98%
7. Implement action plan to maintain competency folders for all primary care providers in conjunction with the chief medical officers.
8. Provide action plan to maintain coverage of primary care clinics in the Health Care System
9. Arrange compensation and pension training plan in the Frank Tejada VA Outpatient Clinic in coordination with Dr Dinesman (Chief of Comp and Pen) NLT 1-24-11 to be accomplished in one week increments with intermittent breaks to stay up with the ACOS-PC responsibilities in Harlingen. This was previously arranged for you but you requested the director to defer the training to a future date
10. Respond to clinical alerts in a timely manner to avoid delaying care of patients waiting on consultations.
11. Continue recruiting for primary care physicians consistent with demand by the clinics
12. Continue to act as physician utilization management advisor for the HCS

B-21

13. Continue participation in the conversion of CPRS from 671 (STXVHCS) to 740 (VATVCBHCS). Summary transition note and problem list cleanup are priorities for the clinics
14. Continue participation in the pay panel process for physician salaries
15. Continue participation in the assigned medical staff committees and primary care committee meetings
16. Establish clinical pertinence process and follow-up of unacceptable care by the provider when alerted by the reviewer.
17. Action plans to improve and maintain Access measures for all primary care clinics
18. Action plans to improve and maintain overall Satisfaction measures in the primary care clinics
19. Implement performance improvement projects for all primary care clinics in conjunction with Quality Management and outpatient clinic leadership
20. Coordinate service agreements between the specialty services and primary care. This needs to be arranged NLT 2-1-11.
21. May consult as needed on Harlingen Care Center Ambulatory Surgery Center due to your past expertise in setting up ASC's .
22. PCMM labor mapping for primary care providers to assure appropriate panel sizes
23. Your tour of duty is Monday to Friday 0800 to 1630 and you are expected to comply with the hours. You may request leave as long as you inform the leadership in the administration office and arrange for coverage.

Most of these items have been discussed in the past and some discussed today as a reminder. I hope this will clarify my expectations of you as ACOS-PC



Raul Aguilar MD

Chief of Staff

VATVCBHCS

Richard Krugman MD

ACOS-PC

VATVCBHCS

Richard Krugman

From: Richard Krugman [rkrugman@pma-fl.com]
Sent: Thursday, July 14, 2011 11:02 AM
To: 'sthomas@osc.gov'
Subject: FW:
Attachments: 1-7-11 10N Conference Call Minutes.doc

Ms. Thomas,

After Dr. Aguillar assaulted me, we had a meeting with the Director where Dr. Aguillar admitted he had assault me. The Director's response was to give me job listings for me to look for a job in another VA system.

No formal action was taken against Dr. Aguillar, I had become an inconvenience and they wanted me out of the Valley.

Regards,

Richard Krugman

From: Krugman, Richard [mailto:Richard.Krugman@va.gov]
Sent: Wednesday, January 26, 2011 2:14 PM
To: rkrugman@pma-fl.com
Subject: FW:

From: Milligan, Jeffery L. (SES)
Sent: Friday, January 07, 2011 1:29 PM
To: Krugman, Richard
Subject: FW:

At the bottom of the Word document they list appointments and vacancies. This comes out every Friday.

Also, here is a website that also lists a lot of National and VACO (Washington) positions.

<http://www.vacareers.va.gov/>

From: Daskocil, Mark
Sent: Friday, January 07, 2011 1:27 PM
To: Milligan, Jeffery L. (SES)
Subject: RE:

Here you go.

From: Milligan, Jeffery L. (SES)
Sent: Friday, January 07, 2011 1:26 PM
To: Daskocil, Mark
Subject:

Do you have today's Friday 10:15 call minutes? I misplaced them.

B-23

7/17/2011

Daniel Martinez, M.D. P.A.
Daniel Martinez M.D.
Board Certified - Cardiothoracic, Vascular & General Surgery

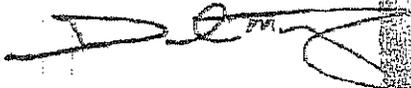
November 4, 2011

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Later, Dr Aguilar attempted to have me review consults from various clinics for referral to private providers. I did not feel comfortable as a surgeon reviewing internal medicine consults and discussed the matter with him. Some time later he told me that he and Dr Krugman would be reviewing these consults together in a joint project.

Sincerely,



Daniel Martinez, M.D.

David C. Fell
2701 S. Business 77
Harlingen, Texas 78550
June 14, 2011

To whom it may concern:

Dr. Richard Krugman, Associate Chief of Staff for VA Texas Valley Coastal Bend Health Care System assigned as Chief of Primary Care has expertise and depth of knowledge regarding medicine and the appropriateness of standing up many Ambulatory Surgery Centers in the private sector. Dr. Krugman has exceptional depth of insight from the private sector and is very well versed in the fiscal and economic subtleties of standing up new facilities. Dr. Krugman has demonstrated this ability by being successful in the private sector and his success cannot be argued against.

Dr. Krugman is an intelligent and motivated individual. He is more than capable of managing a large group of people and organizing them into a cohesive force. He continues to look for ways to economize expenditures and shepherd diverse ideas with his shrewd fiscal prowess in order to reduce cost expenditures. Dr. Krugman has a straight forward, tell it like it is attitude which translates into easy decision making. One of Dr. Krugman's best assets is that he is always willing to listen to the ideas of others and is quick to grasp those ideas that differ from his own. This willingness to listen to the ideas of others makes him very successful.

Dr. Krugman's approach to medication refills and renewals for narcotic medications has shown the potential to reduce the abuse and misuse of pain medications in our Health Care System. Due to the experience of Dr. Krugman as an anesthesiologist, he has allowed us to explore some alternatives to our IV room and reduce expenditures in this area. I believe that developing quality relationships within the Health Care Industry is the responsibility of each health care member, and Dr. Krugman's consistent contributions to that end are an excellent case in point.

If you would like additional information, you can telephone me at (956) 430-9340.

Sincerely,

David C. Fell, R.Ph.
Chief, Pharmacy Service (119)
VA Texas Valley Coastal Bend HCS

B-29

Department of
Veterans Affairs

Memorandum

DATE: June 8, 2011

FROM: Dr. Pamela Fieldus
Chief Health Informatics Officer
VA Texas Valley Coastal Bend Health Care System
2601 Veterans Dr
Harlingen, Texas 78550

SUBJECT: Letter of Recommendation, Dr. Richard Krugman

To Whom It May Concern:

1. It gives me great pleasure to recommend Dr. Richard Krugman for your position. Since the first days of Dr Krugman's stay at this VA facility we have been in preparation for separation from another VA facility and to activate VCB on June 1 2011. This is of significance as it is a process that requires a complete VISTA build and the creation of a new CPRS system with its associated systems redesign activities. This is a unique occurrence for any VA and for Dr Krugman, as a new arrival to the VA family, it has provided him the opportunities to contribute the valuable "out-of-the-box" insight from his experiences in the private practice sector. Dr Krugman, in the ACOS role, has played a significant role in the formulation of new processes and has provided guidance and insight for key critical functions of the patient care processes. He has demonstrated successful accomplishments in the private sector in the area of OPT surgery: its structure, organization, efficient clinical processes, and billing -this would provide a VA the valuable business perspective of healthcare operations. During his tenure with us Dr Krugman has served to facilitate many needed process changes to accomplish the standing up of our new medical record including serving in the leadership role for ICD 9 problem list category development for the new medical record. Additionally, Dr Krugman has recommended changes for the coding practices of our providers.
2. Dr Krugman's training and experience provided our staff with both educational and clinical information that improved the patient care practices of the clinic.
3. I can, without hesitation, give him my highest recommendation. You will be proud to have him on your staff. Please do not hesitate to call me if I can offer anymore information on this outstanding medical professional.

Pamela Fieldus, DDS
Chief Health Informatics Officer
VA Texas Valley Coastal Bend Health Care
System

B-30

Buccola, Kevin (HRRO)

From: Lozano, Robert A.
Sent: Thursday, June 09, 2011 9:17 AM
To: Buccola, Kevin (HRRO)
Subject: Dr. Richard Krugman

June 9, 2011

Ms. Mary Ann Waterman
Administrative Officer to the Chief of Staff
Indianapolis VA Medical Center
Indianapolis, Indiana

Dear Ms. Waterman,

I am writing you to give my enthusiastic endorsement for Richard Krugman, M.D. who is applying for the position of Chief of Staff at your medical center. Presently, he is the Associate Chief of Staff for Ambulatory and Primary Care at the VA Texas Valley Coastal Bend Health Care System. Dr. Krugman is my immediate superior in the system.

Prior to joining the VA, I have been in private practice and worked in medical staff leadership in our regional hospitals for over twenty years. I have served as the Vice-President of Medical Affairs/Chief Medical Officer for the past three years within a regional hospital system. I have gotten to work with several different administrators over the years.

Dr. Krugman is a bright, engaging, and an energetic administrator who will be a valued asset in any system he joins. He is warm personal communicator and is able to develop support for tough assignments. Administratively, he is oriented to problem solving and empowers others by leading and guiding them to solutions they can support and achieve. Dr. Krugman has been a helpful mentor to me and is always open to a phone call or personal contact to give advice or to discuss an issue. He is well respected among the medical staff members who have appreciated his support while working under stress.

I highly recommend Dr. Richard Krugman for your medical center. If you have any questions about Dr. Krugman please feel free to contact me.

Sincerely yours,

Robert A. Lozano, MD, PhD
Chief Medical Officer
Neurologist
VA Harlingen Outpatient Clinic (HOPC)
2106 Treasure Hills Blvd
Harlingen, TX 78550
Work: (956) 366-4500 x67807
VA Cell: (956) 345-0939
Email: Robert.Lozano2@va.gov

B32

Item C

Richard Krugman, M.D., the Whistle Blower
Inadequate facilities @ VATVCBHCS ASC

**Item C Richard Krugman, M.D., the Whistle Blower
Inadequate facilities @ VATVCBHCS ASC**

The VACO team conducted a site visit @ the HCC on February 8 & 9th, 2012. Exactly 17 months after Richard S Krugman, MD, The Whistle Blower, started questioning the wisdom of the administration and the ultimate cover-up by the VISN Director and his staff.

VACO has stated after their inspection of February 8 & 9th, 2012 at the HCC, that;

1/A. Dr. Krugman, the Whistleblower disclosed that the HCC lacked an appropriate, Heating, Ventilation and Air Conditioning system to adequately control humidity in the Operating Theatre

1/B. VACO stated that the HCC surgical unit is served by a dedicated HVAC system that is designed to control humidity in the operating theater.

2/A. Dr. Krugman disclosed that the HCC lacked back-up generators and the facility would be in trouble during the summer months when temperatures remain in the 90^os-100 degrees.

2/B. VACO stated that the HCC is served by a 1,600 kilowatt diesel fueled generator with automatic transfer switches that comprise the emergency electrical system (EES). This generator is sufficiently sized to provide emergency electrical power to the HCC in the event that utility provided power is interrupted.

3/A. Dr. Krugman disclosed that the facility was not unable to support any surgical procedures and perform sterilization of equipment.

3/B. VACO determined that both the SPD areas are served by AHU-1.

The SPD area ventilation distribution system is designed to provide VA required air exchanges, temperature and humidity and room balances (pressure relationships) between different functional spaces.

This is all well and good. The ribbon cutting, Dedication of the new Harlingen VA Outpatient Clinical and Surgical Center occurred on February 02, 2011. **To this date June 12, 2012, not one open surgical case has been performed.**

The Acting Chief of Surgery, because of her apprehension of retaliation has announced her retirement as of December 31, 2012.

As I said, you will hear that VACO did come down to visit the project, interview the administration and in their opinion everything was appropriate. I would hope so. But that is not why we are here. As a whistle blower, I can only tell you what occurred, while I was employed or thereafter. If they say that there is a dedicated HVAC, appropriate backup generator, a Surgical and Sterile Processing Department (SPD), appropriate Ventilation system, etc., etc.. I would have to say I hope so. But that is not what I said. As a whistleblower I am relating what I knew up until the time I was discharged.

They did not mention what the costs were for the retrofit, the extent of the retrofit, that the majority of the OR equipment was not purchased until early September 2011, with a delivery October/November. Ten months after the ribbon cutting. At what cost and what pocket did it come from? In my addendums I will show that by December 2011, VATVCBHCS realized what occurred and a mad rush to correct before the public became aware or VISN realized the extent of the cover-up.

Yes, they are now doing colonoscopies on the third floor. A procedure that can be performed in a physician's office. Yes, a slim to moderate case load of cataracts for one ophthalmic surgeon are now being done. **But not one open surgical case has been performed on the third floor.** Even the Acting Chief of Surgery will not do a case on the third floor. All of her pathological procedures are done on the Second Floor.

More than \$50,000,000 dollars which was merely the initial budget, for procedures which could have been done at the Harlingen Out-Patient Clinic, one block away? Once again, this was the estimated original cost of building the facility.

Perhaps, at the present time, the best question to ask is where has the additional funding that was required to make the necessary improvements come from? And, as importantly, how much have these retrofits cost?

Towards the end of my active employment, it had become clear that we were being asked to find ways to "reduce utilization of fee basis in VATVCBHCS by 10%." Once again, our patient population was growing at approximately twice that rate. To that end Dr. Aguilar starting instituting policies to reduce the referral of fee basis patients. An example of this is his policy that required four Fecal Smears to be performed before a patient could be referred for a colonoscopy. This is not the medical norm, as an employee of the Veterans Administrative, I had perhaps one of the finest medical insurance policies and I can assure you that this is not the treatment my wife and I received. When my wife turned fifty, at least two of her physicians told her it is time to get her first colonoscopy, this was her rite of passage prescribed by the American Medical Community. So a relatively healthy woman with no symptomology requiring a colonoscopy was ordered to have one because her age dictated it, a Veteran in the Rio Grand Valley had to get four positive fecal tests to earn a colonoscopy. To me this was quite barbaric.

My conclusion was that the money, short of an act of Congress, would have to be derived by cutting the quality of care to our Veterans patients! And I maintain, to this day, this is what has occurred with the VATVCBHCS and can be confirmed by talking to the patients affected by the reduced care they are receiving.

Surgical Staff Hired but Unable to Practice

VACO's answer is "the allegation regarding this particular physician is partially substantiated". An 11 month delay from the time of hire of a cataract specialist to the first procedure is too long. Some delays in start up of the ASC were related to uncontrollable events (i.e. CPRS transition). Mitigating this opinion is the fact that it can be challenging

to recruit in the South Texas region, and identifying a surgeon willing to work full time for VA to perform a commonly needed service. Thus, when an opportunity to hire arises, it is reasonable to do so even if the timing is not optimal.

I would agree with this statement if it was true. BUT once again a false statement was made. Except for me, 95% of all physicians associated with this project have been living in the area for most of their career. In the New England Journal and most of the medical-business journals published today, the reference states that one the wealthiest medical communities in the United States are in McAllen Texas. The reason why the difficulty in recruiting and retention of physicians might not be related to the geographical area at all, but rather to the stewardship of its Chief of Staff, Dr. Raul Aguilar.

List of Supporting Documentation

- C-1 December 9, 2010 from Network Director, Bronchoscopy and GI procedures begin February 2011 and ambulatory surgery expected March 2011. Monitoring Equipment, Anesthesia equipment, etc., was not ordered until August/September of 2011
- C-2 ASC 3rd Floor Flow meeting. This was in preparation for Tuesday's tour with Dr. Buckley. During discussion, except for myself, Abel Gonzales and one RN, no one was ever in an ASC or even on a surgical floor in a hospital. Leading the tour would be Dr. Aguilar, an internist that never was in an ASC or surgical floor. I was asked to prep him for Tuesday's tour. At that time he was not knowledgeable of what type of cases could be done in the ASC, what transfer policies would need to be put into place, what ASA status of patient could be safely done at an ASC (especially a new one), Codes, malignant hyperthermia and flow. This is just a very short list of knowledge needed.
- C-3 Time chart
- C-4 Gross Square Feet. 163,309 square feet of which could have been transported to HOPC without the expenditure of \$50,000,000
- C-5 Start dates that are extended by more than a year and general surgery which is non existent
- C-6 From Dr Martinez, Chief of Surgery, stating he was informed that Dr Krugman was going to be on board assisting with the opening and management of the new Ambulatory Surgical Center
- C-7 March 04, 2011. From Abel Gonzales, Chief of SPD. Problems with Temp-Humidity SOW for the HCC
- C-8 February 28, 2011. From Abel Gonzales, Chief of SPD. Problems with Humidity and Temperature
- C-9 March 15, 2011. From Abel Gonzales to Mr. Milligan
- C-10 March 15, 2011. From Sarah Bass to senior management POWER OUTAGES
- C-11 August 15, 2011. From Dr Salinas our ophthalmologist
- C-12 August 15, 2011. From Dr. Salinas
- C-13 August 18, 2011. From Dr Salinas
- C-14 June 01, 2011. From Mainline Medical
- C-15 June 30, 2011. From Stephen Castillo @ Draeger
- C-16 June 30, 2011. From Stephen Castillo
- C-17 July 29, 2011. From Stephen Castillo @ Draeger. Order for equipment has not been finalized, 7 months after ribbon cutting
- C-18 June 22, 2012. From Stephen Castillo @ Draeger. Decision and order was not made until July/August of 2011. Equipment was not received until October/November 2011, 10 months after ribbon cutting and 3 months before VACO came down for inspection
- C-19 April 29, 2011. From Douglass Matney, Group Vice President of UHS south Texas Region
- C-20 April 29, 2011. From Douglass Matney

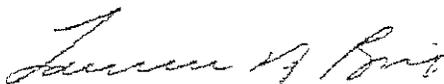
C-21 January 12, 2011. From Mr. Milligan, reduce utilization of Fee Basis in VCB by 10%.

Department of
Veterans Affairs

MEMORANDUM

Date: December 9, 2010
From: Network Director (10N17)
Subj: Approval of VA Texas Valley Coastal Bend Health Care System (VATVCBHCS) Ambulatory Surgery Center Business Plan
To: Under Secretary (10)
THRU: Deputy Under Secretary for Health for Operations and Management (10N) Patient Care Services (11)

1. VISN 17 is requesting the approval of the attached business plan for the VA Texas Valley Coastal Bend Health Care System's (VATVCBHCS) Ambulatory Surgery Center (ASC) per the VHA Directive 2009-001, Restructuring of VHA Clinical Programs. The program will be the first of its kind in the Lower Rio Grande Valley to offer ambulatory surgical services such as Orthopedics, Ophthalmology, Digestive Diseases, Pulmonology, Urology, Dermatology, General Surgery and Otolaryngology.
2. Bronchoscopy and GI procedures are planned to start in February 2011 and ambulatory surgery is expected to begin in March 2011. VATVCBHCS is planning to schedule a site visit with the VHA Surgery Program Office to ensure all ASC requirements are met prior to offering ambulatory surgical services to Veterans.
3. The business plan includes a timeline of the activation of services in the ambulatory surgery center, workload projections, FTE and equipment plans, ASC surgical services algorithm, VATVCBHCS and ASC organizational charts and quality management evaluation tools.
4. If further information is needed, contact Sherrie Bryant, VISN 17 Strategic Planning and Development Manager 817-385-3731.



Lawrence A. Biro
Network Director

CONCUR/DO NOT CONCUR

Madhulika Agarwal, MD, MPH
Director of Patient Care Services

Richard Krugman

Subject: FW: ASC 3rd Floor Flow Meeting
Location: VCB Management Conference Room - 101 - VTEL with CCOPC
Start: Fri 11/5/2010 10:00 AM
End: Fri 11/5/2010 11:00 AM
Show Time As: Tentative
Recurrence: (none)
Meeting Status: Not yet responded

-----Original Appointment-----

From: Heironimus, Linda S. **On Behalf Of** Griffin, Karen F
Sent: Wednesday, November 03, 2010 9:17 AM
To: Griffin, Karen F; Bass, Sarah E.; Garza, Eneida; Clay-Erwin, Shelia R.; Gonzales, Abel; West, Mary Catherine C.; Alamilla, Maria; Weatherby, Bradley K.; Dunn, Jean L; Aguilar, Raul; Krugman, Richard; Bearden, Lissette
Subject: ASC 3rd Floor Flow Meeting
When: Friday, November 05, 2010 10:00 AM-11:00 AM (GMT-06:00) Central Time (US & Canada).
Where: VCB Management Conference Room - 101 - VTEL with CCOPC

This meeting was requested by Sarah Bass and is in preparation for Tuesday's tour with Dr. Buckley.

C-2



Department of Veterans Affairs

VA Texas Valley Coastal Bend Health Care System

The Health Care Center at Harlingen
Ambulatory Surgery & Specialty Clinics

Activation Phases

Phase 1: Priority Areas

- Admin
- Police
- Logistics/Warehouse
- Facilities/Engineering

EMS

- Laboratory
- Pharmacy

Phase 2: Remaining staff from Phase 1 areas

- Prosthetics Rep
- Non Institutional Care Program Staff
- MAS staff

Phase 3: Specialty Clinics from HOPC/Landmark

- Cardiology
- Pulmonary
- Behavioral Health
- PM&R
- SPD Operational

Phase 4: Specialty Clinics from HOPC/Landmark

- ENT
- Pediatry
- Orthopedics

Phase 5: 3rd Floor

- 2 Colonoscopy Suites Operational with 6 bed PreOp area
- 5 PACU Beds
- 3 Operating Rooms

Phase 6: Remaining 3rd Floor Operational - DATES TBD

- 4 PACU and 4 PreOp/Holding Beds
- 2nd Floor Dermatology Clinic
- 1 Cysto & 1 Bronc Suite
- GU Clinic from HOPC

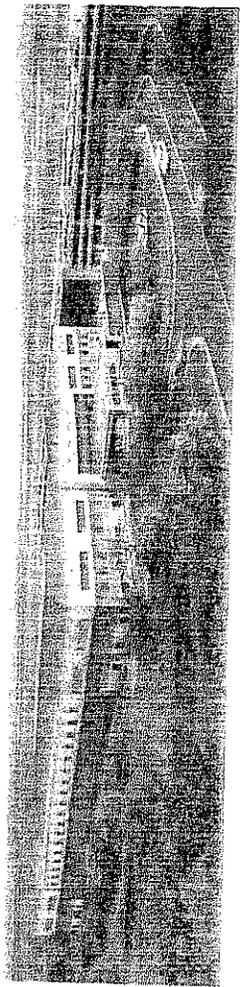
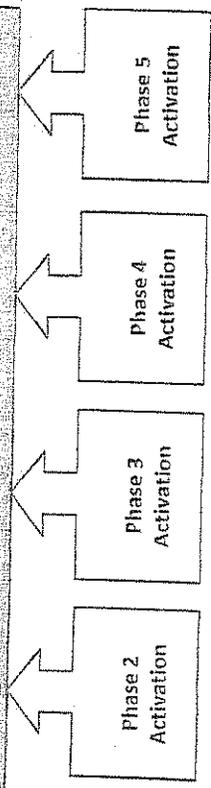
FY11 Furniture & Equipment Ordered
IT Delivery & Installation
Begin Policy & Procedure Development
Phase 1 Activation

ASC Construction Complete

ASC Construction Begins

Building Acceptance
Furniture Delivery & Installation

FY10 Furniture & Equipment Ordered
Organizational Chart Development - Staffing Needs Identified





Ambulatory Surgery & Specialty Clinics

About the Facility

Levels: 1st Level, 2nd Level, 3rd Level

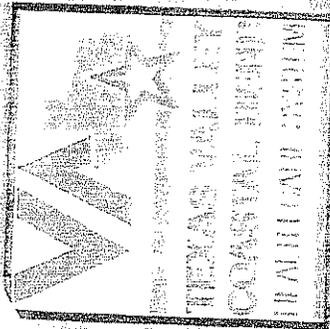
- Eligibility and Medical Administration
- My HealthVet and Patient Education
- Amputee Clinic and Prosthetics Service
- Non Institutional Care Programs
- Administration, Facilities, Logistics, Pharmacy, and Police Services
- Medical, Surgical, and Mental Health Clinics (68 Exam and Procedure Rooms)
- Phlebotomy
- Colonoscopy, Bronchoscopy & Cystoscopy Suites
- 6 Operating Rooms
- 16 PACU, 13 PreOp Holding, 6 GI Preop Beds
- Laboratory/Pathology
- SPD

1st Level 55,038

2nd Level 55,539

3rd Level 55,732

Total Building 166,309



Ambulatory Surgery & Specialty Clinics Surgery & Specialty Service



Establish Medical / Surgical Clinics Second Floor	JAN 2011	7	25
Establish GI Procedures Endoscopies/ Colonoscopies	FEB 2011	10	22
Establish Cystoscopy/ Prostate Biopsies, etc	FEB 2011	5	10
Laryngoscopy	FEB 2011	1	3
Establish cataract surgeries	MAR 2011	5	12

Daniel Martinez, M.D. P.A.
Daniel Martinez M.D.
Board Certified - Cardiothoracic, Vascular & General Surgery

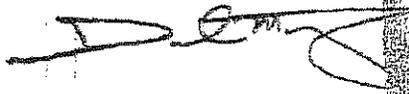
November 4, 2011

To Whom It May Concern:

Prior to my official arrival at Texas Coastal Bend Veteran's Health System I was advised by the Chief of Staff, Dr Raul Aguilar that Dr Richard Krugman was going to be on board assisting with the opening and management of the new ambulatory surgical center (specifically the ASC activation) here in Harlingen, Texas. It was clear from this discussion that this was to be Dr Krugman's primary function. The date when Dr Krugman was early November 2011 when he conducted a tour for me and several others at the ASC (Dr Wendell Jones and Dr Charles Buckley from VISN included). During this time, some deficiencies in the ASC were identified and discussed such the practicality of having glass doors in the room.

Later, Dr Aguilar attempted to have me review consults from various clinics for referral to private providers. I did not feel comfortable as a surgeon reviewing internal medicine consults and discussed the matter with him. In some detail, he told me that he and Dr Krugman would be reviewing these consults together in a joint project.

Sincerely,



Daniel Martinez, M.D.

C-6

Richard Krugman

From: Krugman, Richard [Richard.Krugman@va.gov]
Sent: Friday, March 04, 2011 3:00 PM
To: rkrugman@pma-fl.com
Subject: FW: Temp and Humidity SOW for the HCC
Attachments: Temp-Humidity SOW.doc

From: Gonzales, Abel
Sent: Friday, March 04, 2011 2:53 PM
To: Krugman, Richard
Cc: Scoggins, Victoria R.; Shabazz, Malik
Subject: Temp and Humidity SOW for the HCC

Attached is what I sent forward about temp and humidity requirements in the HCC. Since this has gone out I have talked with one engineer from Boyer who will be here on the 16th. He outlined some of the adjustments being made to the existing system to bring temp and humidity into spec but ultimately that plan will not work against the tropical climate seen in this area. Guy Unger has a list of rooms within the building where sterile items are stored or procedures will be done that must be in temp and humidity range. Please let me know if you have any other questions.

Abel Gonzales RN BSN
Chief of SPD
The VA Health Care Center at Harlingen
Ambulatory Surgery & Specialty Clinics
2601 Veterans Dr
Harlingen, TX 78550
Office # 956-291-9294
Cell # 956-345-5492
abel.gonzales@va.gov



No virus found in this message.
Checked by AVG - www.avg.com
Version: 10.0.1375 / Virus Database: 1509/3659 - Release Date: 05/25/11

C-7

7/9/2011

February 28, 2011

Scope of work for humidity and temperature control at the VA HCC building Harlingen

The Interim Guidance for Ventilation Requirements in Sterile Processing Departments issued January 26, 2011 outlines temperatures of 72-78 degrees and humidity of 20-60%. The AORN 2009 recommendation for the OR and Sterile Processing are 68-73 degrees and humidity of 30-60%.

Our recent temperatures in the SPD and OR areas of the 3rd floor have ranged from 68-78 degrees and the humidity has been from 37-86%.

To be able to process instruments and store them sterile the temperature and humidity must be consistent and controllable 24/7. Infection control for patients also demands that the temperature and humidity be within the described parameters.

Requirement:

1. A mechanical system that will provide humidity/temperature that is within the ranges posted above on the entire 3rd floor. The rest of the building floors would also have better infection control opportunity with the same parameters.
2. Consistent delivery of proper temperature and humidity.
3. Controllable systems that can be adjusted to compensate for outside temperature change that is common to the region.
4. Monitoring of humidity/ temperature at multiple locations especially those where sterile procedures take place or sterile instruments are stored. Monitoring should feed into a central collection point and alarm triggers be set for notification of data that is out of range.

These systems must be on constantly with no evening or week end shut down. When these systems are off they allow heat and humidity build up to occur which affects walls, floors, and sterile items allowing bacteria to establish growth. When the systems start back up after being down they create turbulent air which picks up any particles that have settled.

March 15, 2011

Mr. Milligan,

In regards to the progress we are making for the stand up of SPD I believe we will be operational at the end of May. All equipment should be in and running with training in progress. I am navigating the lengthy processes for ordering items that have to be in place along with our ability to reprocess equipment. Items that are needed in SPD, OR, G.I. Lab, and PACU such as wall suction units are only a small example of additional equipment that must be in place. I wanted to point out several areas that must come on line about the same time as SPD.

1. Full staffing of SPD
2. Staffing of the G.I. Lab (Nurses and Techs)
3. Staffing for Anesthesia
4. Supply items specific for G.I. Lab
5. Anesthesia supplies (carts) and the predicable layout of their location and reorder.
6. SPD equipment and supplies and their predictable storage and reorder
7. G.I. endoscopes on site
8. Some PACU and pre-Op staff on site.
9. Control of the building temp and humidity

I bring these topics up for you to have all the information necessary to make decisions and plans about the future. In fact, there may be other process not in place I that I am unaware of. I do not want to present the picture that SPD running will equal complete readiness for G.I. Lab procedures. The reprocessing of instruments is one component of the entire service line. I am involved in helping areas outside SPD when necessary and will continue to do so. Please review the entire scope of facilities and manpower readiness to make a realistic plan for start time.

Respectfully Submitted,

Abel Gonzales RN
Chief of SPD
956-345-5492

Richard Krugman

From: Krugman, Richard [Richard.Krugman@va.gov]
Sent: Tuesday, March 15, 2011 3:44 PM
To: rkrugman@pma-fl.com
Subject: FW: HCC Power Outage

From: Bass, Sarah E.
Sent: Tuesday, March 15, 2011 3:43 PM
To: VCB OPC CMO AO NM; VCB Senior Management
Subject: HCC Power Outage

The HCC is experiencing a power outage and many folks are not able to use their computers. We are working to get this problem addresses ASAP

Thank you,

Sarah Bass
Operations Administrator
The VA Health Care Center at Harlingen
Ambulatory Surgery & Specialty Clinics
2601 Veterans Drive
Harlingen, Texas 78550
Sarah.Bass@va.gov
Office: (956) 291-9028 Direct Line Ext 69028
Cell: (210) 833-5284

Like us: www.facebook.com/VACBHC

Follow us: www.twitter.com/VAVCBHC

Visit our NEW WEBSITE: <http://www.honolulu.va.gov/>

Richard Krugman

From: Anthony Walluk [awalluklaw@hotmail.com]
Sent: Tuesday, August 16, 2011 8:26 AM
To: Dr. Krugman
Subject: RE: VCV/HCC

Dr. Krugman,

This should go to OSC. Do you have any problem with me forwarding it so they can add him to their investigation witness list?

Tony Walluk

From: rkrugman@pma-fl.com
To: Salomon.Torres@mail.house.gov
CC: awalluklaw@hotmail.com
Subject: FW: VCV/HCC
Date: Tue, 16 Aug 2011 07:38:38 -0500

Received this e-mail from Dr. Ruben Salinas last evening. Shows that situation worse than we thought and a group of physicians and surgeons in the process of quitting secondary to the way Dr. Aguilar and Mr. Milligan are running the program. Cathy Salinas, wife of Dr Salinas also got on the phone yesterday evening. She related that her friendship with the congressman dates back more than 30 years and would like a touch back probably from you or the congressman. She had definite opinions being the spouse but also living and working in McAllen over 30 years. Her number is (956) 330-5008

From: Ruben Salinas [mailto:rubensalinas@rgv.rr.com]
Sent: Monday, August 15, 2011 8:16 PM
To: Richard Krugman
Cc: rubensalinas@rgv.rr.com
Subject: VCV/HCC

Dear Dr. Krugman,

I was hired by you on February 28, 2011. I signed a contract for one year to be a Cataract Surgeon and to provide the best Eye Care with my training for our Veteran population.

I have been seeing patients under Dr. Bohart, because there were no other furnished Eye Examining Rooms. Over the past two weeks finally the Eye Clinic has the equipment for me to work with.

When I started there were two Certified Ophthalmic Assistants helping us with the work up of the patients. One of them was Mr. Russell Hagy who was promoted by the Administration (Dr. Aguilar) to be the person in charge of tele-retina leaving the Eye Clinic with only one COA to help two Ophthalmologist plus an Optometrist. Instead of helping the Eye Clinic this has hindered our efforts to provide the best Eye Care possible with our training.

For 12 weeks Dr. Aguilar did not allow us to perform any type of Laser Eye Procedures, despite the fact that I have as you know have been doing these procedures for the past 32 years and Dr.

C-11

Bohart for the past 40 years. All of these Lasers were feed out to Private Practitioner's in the area when there was no need for that at a great loss of Revenue for this Institution.

My surgical skills have suffered because the Surgical Suites are not ready yet for surgery due to multiply factors including the lack of hiring of the right Human Resources for these areas.

It seems to me that the HCC is being run by the Nursing Staff instead of the Physicians.

Dr. Aguilar has only come to the Eye Clinic twice since I have been there and instead of showing leadership and praising the work of the Physicians we have been blocked every step of the way in providing the best possible care that our Veterans deserve.

He has not even asked us what kind of Human Resources that we need in order to give and deliver the best Eye Care that our Veteran deserve. As you know for every Ophthalmologist and Optometrist the ratio is at least two COA Ophthalmic Assistants for each of them. In my opinion we have been losing Revenue not only for the amount of patients that had to be feed out but also for the lack of Human Resources that we need in the Eye Clinic and that we have not been provided with.

On the Medical Side you have also disenchanting positions which are extremely well trained and loyal to this Institution. I feel that we should have a full time Chief of Surgery and a Chief of Internal Medicine. I personally feel again that the Nurses have been given too much power in the decision making process in this Institution instead of the Physicians who are the ones in a Leadership Position to run the HCC.

In summary it is my own personal opinion that the people at all levels that work in the Administration Building should be moved to the HCC where there is plenty of room so that way the big disconnect between the two can be avoided.

I sincerely hope that this will provide you with some insight of what is transpiring at the HCC. If you need further information please do not hesitate to contact me either via e-mail and or personal meeting.

Best Regards,

Ruben F. Salinas M.D., F.A.C.S.

8/21/2011

C-12

From: Ruben Salinas
Sent: Thursday, August 18, 2011 8:13 PM
To: Richard Krugman
Subject: VCV/HCC. Raul Aguilar M.D. Chief of Staff

Dear Dr. Krugman,

I will try to summarize for you my experience to the exposure of Dr. Raul Aguilar.

1. During the last six months since I have been hired I have only seen Dr. Aguilar twice come to the Eye Clinic and on both occasions the Eye Team was humiliated instead of praising us for our efforts in trying to provide the best possible eye care to our Veterans without the proper equipment or Human Resources and that was done in front of the Nurses.
2. For three months he did not allow us to do any type of Laser Eye Procuders despite our qualifications instead he encouraged us to feed them out to Private Practitioners which was a great loss of Revenue for this Institution.
3. He has not provided us with the proper Human Resources for the two M.D.'s and one OD for the clinic to be more productive and provide our Veterans with more help to do diagnostic procuders it has taken six months or more for the rest of the Eye Clinic to have the proper instruments and equipment for us to perform our job.
4. He did not provide any training for the new comers Physicians and otherwise in order for us to learn the computerized patient record system of the VA and be more productive.
5. Up until now I still do not have a Clinic of my own because of the lack of the equipment and the lack of Certified Eye Technicians. There is a long waiting list of patients to be seen because of the lack of equipment in the Eye Clinic.
6. The past six months I have only seen Dr. Aguilar physically present at one of the Medical Staff Meetings.
7. Despite that I was hired as a Cataract Eye Surgeon no procuders have been done to this date they have all been feed out because the Operating Rooms lack of Equipment and Human Resources.
8. Since I have been in the Eye Clinic I have not seen a full time Nurse designated for our Clinic nor do we have a Crash Cart for an emergency in the Eye Clinic.

C-13

9. Because the Nurses rule the HCC from Dr. Aguilar's orders among the petty things that we have to go through is the fact that on a daily basis we have to ask the Pharmacy to provide us with dilating drops, antistatic drops and other eye meds that we require for our daily work.

10. There is still one Exam Room not furnished.

11. We still do not have a full time Chief of Surgery and or Chief of Internal Medicine and we still do not have an Anesthesiologist.

Best Regards,

Ruben F. Salinas M.D., F.A.C.S.

Krugman, Richard

From: Darlene Rider [darlenerider@mainlinemedical.com]
Sent: Wednesday, June 01, 2011 4:05 PM
To: Krugman, Richard
Subject: Quote
Attachments: VA Medical Center Quote.pdf

Richard,

Attached is the quote we discussed. Charles Dubois had called our office on 8/5/2010 asking for this quote.

We would like to know if someone is still interested in these nerve stimulators or if we should delete the quote from our system.

Any help you can provide would be appreciated.

Thank you..

Sincerely,

Darlene Rider
Customer Service



Your Anesthesia & Respiratory Specialist

3250-J Peachtree Corners Circle
Norcross, Georgia 30092-4301
Tel: (800) 366-2084 • (770) 409-2800 Ext. 15
Fax: (800) 261-3066 • (770) 409-1414
Website: mainlinemedical.com
Email: darlenerider@mainlinemedical.com

Superior Quality • Exceptional Value • Unmatched Service

C-14

Alamilla, Maria

From: Milligan, Jeffery L. (SES)
Sent: Wednesday, January 12, 2011 1:44 PM
To: Aguilar, Raul; Griffin, Karen F; Alamilla, Maria; Weatherby, Bradley K.; Krugman, Richard; Scoggins, Victoria R.
Cc: VCB OPC CMO AO NM; Nix, Angela J.; Malone, Danna
Subject: Fee Basis (Non VA Care) Reductions

As you know, one of our performance goals for FY 2011 is to reduce utilization of Fee Basis (Non VA Care) in VCB by 10%. This reduction is of course to be performed safely and effectively.

At the ELC yesterday, I was provided with the number of Fee Authorizations for FY 2010, 31,521.

Our goal for FY 2011 will be to reduce fee authorizations by 3152. We will discuss this tomorrow at morning report.

Thank you.

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