



DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON DC 20420

June 16, 2015

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

RE: OSC File No. DI-14-1515

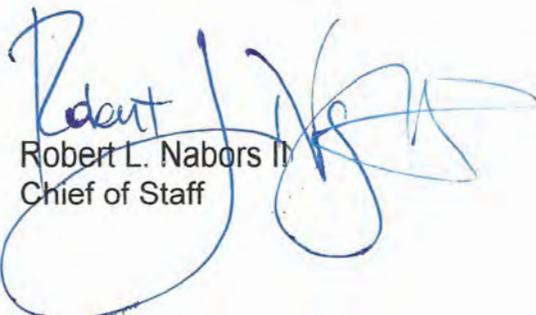
Dear Ms. Lerner:

As you requested, I am providing a revised response to your letter regarding alleged violations raised by Whistleblower (hereafter, the whistleblower) at the North Texas Health Care System in Dallas, Texas. The whistleblower, who agreed to the release of her name, alleged that a coworker accessed her Veteran medical records without proper authorization; that her supervisor improperly disclosed her Veteran medical information to coworkers; and that these actions possibly constitute a violation of law, rule or regulation, gross mismanagement, and an abuse of authority. The Secretary has delegated to me the authority to sign the enclosed report and take any actions deemed necessary as referenced in 5 United States Code § 1213(d)(5).

The Secretary also asked the Interim Under Secretary for Health to review this matter and to take any actions deemed necessary as referenced in the above code. The Interim Under Secretary for Health, in turn, directed the Veterans Health Administration, Information Access and Privacy Office (IAP) to conduct an investigation. In its investigation, IAP substantiated the first of the two allegations made by the whistleblower and did not substantiate the second allegation. IAP made three recommendations for the facility. Findings from IAP's investigation are contained in the enclosed report, which I am submitting for your review.

Thank you for the opportunity to respond.

Sincerely,



Robert L. Nabors II
Chief of Staff

Enclosure

VETERANS HEALTH ADMINISTRATION

Washington, DC

**Report to the
Office of Special Counsel
OSC File No. DI-14-1515**

**Department of Veterans Affairs
VA North Texas Health Care System
Dallas, Texas**



**Original Report Date: October 8, 2014
Supplemental Report Date: May 11, 2015**

Executive Summary

The Secretary requested that the Veterans Health Administration (VHA) Information Access and Privacy Office (IAP) investigate complaints lodged with the Office of Special Counsel (OSC) by Whistleblower (hereafter, the whistleblower), at the Department of Veterans Affairs (VA) North Texas Health Care System (VANTHCS), Dallas, Texas (hereafter, the Health Care System). The whistleblower, who agreed to the release of her name, alleged that a coworker accessed her Veteran medical records without proper authority, and that her supervisor improperly disclosed her Veteran medical information to coworkers. IAP conducted a site visit to the VANTHCS, Dallas, Texas on August 28-29, 2014.

Summary of Allegations

The whistleblower's allegations are:

1. Employee, a Radiation Assistant in the radiology department, accessed Whistleblower medical records without her permission or proper authorization; and
2. Supv Ther Rad Tech, Chief Radiation Therapist, improperly disclosed Whistleblower medical information to her coworkers.

Conclusions for Allegation #1

- VHA substantiated the allegation that an employee violated a Veteran's privacy by accessing the Veteran's patient medical records without proper authority or a need for the information in the performance of official duties related to treatment, payment or health care operations.
- VHA has determined that the substantiated allegation was already appropriately investigated and the employee who violated the Veteran's privacy was appropriately disciplined.

Recommendations

1. The Health Care System has already appropriately addressed this privacy violation and disciplinary action has been taken against the employee. However, the Privacy Officer did not enter the privacy violation in the Privacy and Security Event Tracking System (PSETS) as required by VA policy. The Dallas VA Medical Center (VAMC) Privacy Officer needs to be officially reminded of her responsibilities for timely reporting of privacy violations in PSETS. The VHA Privacy Officer officially informed the Dallas VAMC Privacy Officer of her responsibilities regarding privacy violations on October 8, 2014.
2. The VHA Privacy Office will create a form or bulletin titled, "Notice to Privacy Complainant", which will explain the complaint process and what information can be shared with the complainant regarding actions taken. The Notice to Privacy

Complainant will be provided to an individual upon submission of a privacy complaint to the Privacy Officer.

Conclusions for Allegation #2

- VHA could not substantiate that Supv Ther Rad Tech disclosed Whistleblower medical information to her coworkers.

Recommendations

1. Though VHA could not substantiate the allegation, the facility Privacy Officer should provide an in-service training on privacy policies and practices to the Radiation Oncology Department to remind its employees of their responsibilities in protecting the privacy of our Veterans, including those who are also employees or coworkers.

Summary Statement

IAP's investigation and review of its findings found a violation of VA and VHA privacy policy regarding access to the complainant's health information.

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I. Introduction

The Secretary requested that VHA's IAP investigate complaints lodged with OSC by a whistleblower at the Health Care System. The whistleblower, [Whistleblower], a Therapeutic Radiology Technician agreed to the release of her name. She alleged that the Health Care System engaged in conduct that may constitute a violation of law, rule or regulation, gross mismanagement, and an abuse of authority. The whistleblower alleged violations regarding patient privacy. Specifically, the whistleblower alleged a coworker accessed her Veteran medical records without proper authority and that her supervisor improperly disclosed her Veteran medical information to coworkers.

II. Facility Profile

The Health Care System is VA's second largest health care system and serves over 113,000 Veterans and delivers 1.4 million outpatient episodes of care each year to Veterans in 38 Texas counties and two counties in southern Oklahoma. The Health Care System has 4,700 employees and 1,700 community volunteers who serve at the Dallas VA Health Care System, Sam Rayburn Memorial Veterans Center, Fort Worth Outpatient Clinic, Tyler VA Primary Care Clinic, Polk Street VA Annex Clinic and five community-based outpatient clinics. The Radiation Oncology Department consists of 20 employees – 1 chief, 2 supervisors and 17 employees.

The Health Care System received four privacy complaints regarding unauthorized access during fiscal year (FY) 2014. Of the privacy complaints received, two were substantiated.

III. Allegations

The whistleblower's allegations are:

1. [Employee], a Radiation Assistant in the radiology department, accessed [Whistleblower] medical records without her permission or proper authorization; and
2. [Supv Ther Rad Tech], Chief Radiation Therapist, improperly disclosed [Whistleblower] medical information to her coworkers.

IV. Conduct of the Investigation

The IAP Team consisted of (b)(6) Director Information Access and Privacy Office; (b)(6), Human Resources (HR) Consultant, VHA Human Resources & Staffing Services; (b)(6), VHA Privacy Office Manager; and (b)(6) Privacy Specialist. IAP reviewed relevant policies, procedures, reports, memorandums, and additional documents as listed in Attachment A.

The IAP Team conducted a site visit to the Dallas, Texas VAMC on August 27-28, 2014. During its site visit, the IAP Team held an entrance briefing with the Health Care System Director, (b)(6).

The IAP Team contacted the whistleblower prior to the site visit to determine who she felt needed to be interviewed in addition to the individuals named in the OSC letter. The whistleblower indicated the IAP Team should also interview [Chief Rad Oncol Ser], Chief Radiation Oncology, [Dosimetrist], Dosimetrist, and [Rad Ther Tech], Radiation Therapy Technician.

The IAP Team interviewed the following individuals either during the site visit or during post-visit via conference calls:

- [Whistleblower], Whistleblower
- [Chief Rad Oncol Ser], Chief, Radiation Oncology Service
- [Supv Ther Rad Tech], Supervisory Therapeutic Radiologic Technologist
- [Secretary], Secretary
- [Rad Ther Tech], Radiation Therapy Technician
- [Dosimetrist], Dosimetrist
- [Med Admin Asst], Medical Administrative Assistant
- [Privacy Officer], Health Care System Privacy Officer
- [Act Admin Off in 2013], Acting Administrative Officer in 2013

The IAP Team was not able to interview [Employee] as he was on sick leave while the IAP Team was on-site and retired from VHA effective, August 30, 2014. IAP was not made aware that [Employee]'s retirement was pending until August 27 while on-site.

The Office of General Counsel (OGC) reviewed IAP's findings to determine whether there was any violation of law, rule, or regulation.

The IAP Team **substantiated** allegations when the facts and findings supported that the alleged events or actions took place. The IAP Team **did not substantiate** allegations when the facts showed the allegations were unfounded. The IAP Team **could not substantiate** allegations when there was no conclusive evidence to either sustain or refute the allegations.

The IAP Team substantiated Allegation 1, but could not substantiate Allegation 2.

a. Summary of Testimony Obtained

During the course of several conversations with the IAP team of the following: she works as a "therapeutic radiologic technologist" at the Dallas VAMC, and reports to [Supv Ther Rad Tech]; she has been in her position since July 2011. She is a Veteran and receives her medical care at the Dallas VAMC. Concerning the incident of July 11, 2013, the whistleblower stated she was frustrated due to a home loan closing on that date and she had received word that the closing was not going to be accomplished as originally planned. She was on an elevator with [Med Admin Asst] and [Secretary] and related some of her frustration to those individuals when asked how she was doing. The whistleblower stated, "[Med Admin Asst] was on some phone with Bluetooth so she wasn't looking at me or paying any attention."

The whistleblower had another conversation with [Secretary] around 2:00 p.m., and during that conversation [Secretary] described some medical conditions (such as the whistleblower had recently received a new medical diagnosis and that she been recommended to take anxiety medication by her primary physician), that she believed the whistleblower had. The whistleblower indicated that “some of it, like I said, was accurate, and some I don't know where she got it from.” [Secretary] had no way of knowing these conditions without having looked at the whistleblower's medical records. And at the end of the conversation with [Secretary], the whistleblower stated she “remembers her saying I'm going to go tell [Supv Ther], you know. And I was like fine, you know, whatever.”

Around 3:00 p.m. that day, [Supv Ther Rad Tech] approached the whistleblower and indicated that he needed to speak to her. She responded that she wanted a Union representative to be present for this conversation, if held in his office. [Supv Ther Rad Tech] indicated they could talk where they were standing. [Supv Ther Rad Tech] indicated [Secretary] advised him that the whistleblower made suicidal statements in the elevator, to which the whistleblower responded, “That's a straight-up lie.” Towards the end of the work day (between 4:00 p.m. and 4:30 p.m.), [Supv Ther Rad Tech] again approached her with [Secretary], [Med Admin Asst] and [Employee] accompanying him. They also had the whistleblower's personal belongings with them. [Supv Ther Rad Tech] advised the whistleblower that he was taking her to the Emergency Department (ER) at the facility due to her potentially suicidal comments. She again denied making these types of comments. She, [Supv Ther Rad Tech], [Secretary], [Med Admin Asst], and [Employee] all went to the ER. Once there she was seen first by a nurse then by a doctor. She asked that no other Radiology Oncology Department employee be present when she was speaking to the clinicians. Neither practitioner determined that she was suicidal, and she was released from the ER around 7:00 p.m. that evening. At that time no one from the Radiology Oncology Department was present in the ER.

Based on some training she has received, the whistleblower does not believe that [Supv Ther Rad Tech] and the others handled the situation involving a potential suicide threat correctly because, if they had, she would have never been out of sight of a doctor or nurse (would have had one-to-one coverage) from the moment she made a potential suicide threat. She reported to work, as scheduled the following day, July 12, 2013. The Department's administrative officer at that time, [Act Admin Off in 2013], later took statements or Reports of Contact (ROC) from employees within the Department about the situation, but the whistleblower does not believe that anything was done with these statements.

During the July 11 situation, [Secretary] made comments about the whistleblower's medical conditions and diagnoses, where she would not have been aware of if she had not had access to the whistleblower's medical records. The whistleblower discussed her concerns about the privacy of her medical records with the Union, and the Union suggested she request an access report (technically referred to as the Sensitive Access Patient Report [SPAR]) from the facility's Privacy Officer, [Privacy Officer]. The

whistleblower requested such a report in July 2013. From the report provided by the Privacy Officer, the whistleblower determined that [Employee] had accessed her records in February 2013, and she did not believe that he had a work-related need to access her information, so she reported this access to the Privacy Officer, [Privacy Officer] in writing (**Exhibit #5**). She believes that the situation may have been looked into, as she received a letter from the Privacy Officer on September 17, 2013, advising her that her records had been inappropriately accessed and that appropriate action would be taken (**Exhibit #2**). She has never received any verification of an outcome related to [Employee], as to whether or not he was actually disciplined. [Employee] has remained an employee within the Radiology Oncology Department, and the whistleblower is concerned that he may take some type of retaliatory action against her. She has overheard him make comments to other employees referring to her as “a bitch.”

According to the whistleblower, other employees within the Radiology Oncology Department have heard fellow employees discussing her medical conditions. In conversations with the whistleblower, she suggested that Radiology Oncology Department employees, [Dosimetrist] and [Rad Ther Tech] would provide testimony regarding her allegations and their testimony is provided below. The whistleblower has reported the Radiology Oncology Department Chief, [Chief Rad Oncol Ser], for other potential violations of laws, rules and regulations to both the Office of Inspector General and OSC. She believes that [Chief Rad Oncol Ser] does not like her because he thinks she is “a troublemaker,” and that she works in a hostile work environment. The whistleblower wants her coworkers to stop discussing her medical conditions in public. When asked about her expectations, the whistleblower indicated she believes that a proper resolution to her situation would be that [Employee] be removed from employment with VA (terminated) and that some type of administrative action be taken towards [Chief Rad Oncol Ser] for allowing the situation to happen in the first place. The IAP Team informed the whistleblower that termination upon a first offense of unauthorized access is not the usual level of disciplinary action based on VA policy and the Master Agreement.

[Chief Rad Oncol Ser] is the Chief over the Radiology Oncology Department, and he supervises the radiation therapy section, which is supervised by [Supv Ther Rad Tech]. He advised the IAP team of the following: he was present and on-duty on July 11, 2013, when the situation concerning the whistleblower making a possible suicide threat developed. He was seeing patients that day, and did not become aware of the situation until towards the end of the day. He was advised by the unit secretary, [Secretary], that the whistleblower said something disturbing about wanting to commit suicide. [Secretary] told him that the whistleblower was speaking to [Supv Ther Rad Tech] about the situation. He was also told that [Med Admin Asst] had also heard the whistleblower’s comments and was disturbed by them as well. At the end of the day he came to the work area and noticed that many Radiation Oncology employees were missing. He was advised that [Supv Ther Rad Tech] had taken the whistleblower to the ER, so he went to the ER to check on the situation. Several department employees, including [Supv Ther Rad Tech], [Secretary], and [Med Admin Asst], were in the ER. He informed these employees they could go home as it was the end of the work day and advised them that they would need to write

up some statements about what had transpired. [Chief Rad Oncol Ser] also wrote a ROC to document the situation. He asked the administrative officer at that time, [Act Admin Off in 2013], to collect these statements. The whistleblower reported to work the next day but [Chief Rad Oncol Ser] did not discuss anything related to the prior day with her. He did not receive any documentation from the ER, Human Resources (HR), or any other area related to the whistleblower being allowed to return to work. The whistleblower was never referred to the Employee Assistance Program (EAP). [Chief Rad Oncol Ser] says that he was satisfied with the way that [Supv Ther Rad Tech] handled the July 11 incident with the whistleblower ([Chief Rad Oncol Ser] believes that it was appropriate for [Supv Ther Rad Tech] to take the whistleblower to the ER), but that [Supv Ther Rad Tech] should not have taken any other employees from the radiation therapy section with him to the ER.

At some point in time after the July 11 incident, the whistleblower complained to another supervisor in the Radiology Oncology Department [Supv Rad Oncol Dept] that employee [Employee] had improperly accessed the whistleblower's medical records. The whistleblower had gone to the Privacy Officer and verified that [Employee] had accessed her records. [Chief Rad Oncol Ser] does not believe that [Employee] had a need to access these records, and that he originally thought [Employee] would be suspended for several days for this offence. However, after the situation was discussed with the HR Department, it became apparent that a lesser discipline would be issued to [Employee]. [Employee] ultimately received an admonishment for accessing the whistleblower's medical records.

[Chief Rad Oncol Ser] says that he is not personally aware of any medical condition that the whistleblower might have. He is aware that she sees a doctor or doctors at VA. [Chief Rad Oncol Ser] frequently works with the whistleblower providing direct patient care to Oncology patients, and believes her to be competent in her position as a therapeutic radiologist.

[Supv Ther Rad Tech] is the Chief Therapist in the Radiology Oncology Department, and he supervises the radiation therapists, including the whistleblower. He advised the IAP team of the following: he was on-duty on July 11, 2013. Early in the afternoon of that day he was approached by [Secretary], who advised him that she and [Med Admin Asst] were present when the whistleblower made a comment to the effect that the whistleblower "didn't want to be alive." [Secretary] took this comment to be a threat of suicide. [Supv Ther Rad Tech] then went to the whistleblower and asked her if she had made such a comment, which she denied. At that time (mid-afternoon), [Supv Ther Rad Tech] told the whistleblower to go back to work and continue treating patients. He then went back to [Secretary] to confirm what she indicated was said, and she indicated [Med Admin Asst] was also present and heard the statements. He then asked [Med Admin Asst] what the whistleblower had said and [Med Admin Asst] confirmed [Secretary]'s indication that the whistleblower had said something akin to wanting to hurt herself.

[Supv Ther Rad Tech] says that it was getting towards the end of the work day by that point and he felt he needed to take some action to address the situation before everyone went home. He attempted to find [Chief Rad Oncol Ser] to advise him of the situation, but he could not locate [Chief Rad Oncol Ser]. He also says that he had received training about possible patient

suicides, and it was his understanding (based on this training) that any patient who made a potentially suicidal comment should be evaluated by a MD, so at that point he decided to take the whistleblower to the hospital's ER. He asked [Secretary] and [Med Admin Asst] to come along so that they could relay to the ER doctors what they heard the whistleblower say. He also asked another employee, [Employee], to come along because it was his understanding that [Employee] was involved with the local Union and/or had some equal employment opportunity (EEO) responsibilities. [Supv Ther Rad Tech] acknowledges that he did not specifically know what responsibilities [Employee] had in either the Union or EEO areas. [Supv Ther Rad Tech], the whistleblower, and the other employees all went to the ER, but the whistleblower asked that they not be present while she was being evaluated by a physician. At some point during this time [Chief Rad Oncol Ser] also showed up in the ER and [Supv Ther Rad Tech] advised [Chief Rad Oncol Ser] of what had happened. Because the whistleblower said that she didn't want anyone else around, and because it was late in the day, [Supv Ther Rad Tech] eventually went home. He is aware that employees were asked to provide written statements about what happened and he provided such a statement. The whistleblower reported to work the next day, but [Supv Ther Rad Tech] did not speak with her about the situation the preceding day. He also did not ask her if she had any documentation (medical or otherwise) that cleared her for working or treating patients.

[Supv Ther Rad Tech] says that he later learned that [Employee] had accessed some of the whistleblower's medical records, but he has very limited information on that situation because he was not personally involved with it (he does not have any supervisory duties over [Employee]). [Supv Ther Rad Tech] denies discussing the whistleblower's medical conditions or diagnoses. He says that he did not know what her conditions were in July 2013, and is not aware of the conditions at the present time. He is only aware that she takes leave to see doctors at the VAMC. The whistleblower has never discussed her medical conditions with him. [Supv Ther Rad Tech] says that the whistleblower's annual performance evaluations have always been satisfactory, and that she "is good at her job."

[Act Admin Off in 2013] advised the IAP team that she served as Acting Administrative Officer in the Radiology Oncology Department for approximately 6 months in 2013 (her formal position at that time was a health systems specialist trainee). She recalls the events of July 11, 2013, as initially being told by [Secretary] in the early afternoon that [Secretary] had heard the whistleblower say something to the effect that the whistleblower wanted to end her life. [Act Admin Off in 2013] advised [Secretary] that [Supv Ther Rad Tech] should be made aware of this situation. Later that day, [Act Admin Off in 2013] came into the work area and saw that "it was like a ghost town," in that most employees were not there. She inquired from [Chief Rad Oncol Ser] what had happened, but [Chief Rad Oncol Ser] was not aware of what had transpired. She learned that several employees had accompanied [Supv Ther Rad Tech] and the whistleblower to the ER.

Around 4:30 p.m. that afternoon [Secretary] and [Med Admin Asst] returned to the work area, and [Act Admin Off in 2013] asked them to write statements about what happened prior to leaving work. Over the course of the next few days [Act Admin Off in 2013] took ROCs from other

individuals who were involved with the whistleblower's situation. She provided these ROCs to someone within the HR Department (she does not recall the name of that person).

Act Admin Off in 2013 says that shortly after the July 11, 2013 incident, the whistleblower claimed that someone had accessed her medical records and that department employees were discussing her medical conditions. The whistleblower believed that the employees directly responsible for this were Secretary and Employee . The Department Chief Chief Rad Oncol Ser ordered Secretary to be disciplined for accessing the records, but Act Admin Off in 2013 does not believe that Secretary involvement in the situation was properly investigated or established one way or the other. Act Admin Off in 2013 ultimately verbally counseled Secretary about the importance of protecting patient records privacy, and documented this counseling in writing (**Exhibit #6**). Secretary denied at that time that she had ever accessed the whistleblower's medical records. Act Admin Off in 2013 did not supervise Employee so she was not involved with any disciplinary action for him.

After the interview of Act Admin Off in 2013, the IAP team requested additional information from Chief Rad Oncol Ser regarding the memo from him to Act Admin Off in 2013 dated July 17, 2013, recommending Secretary be disciplined for accessing a patient's record (**Exhibit #6**). Chief Rad Oncol Ser stated he did not recognize the memo. He indicated he does not have a copy of the memo with his signature. He indicated the conversations were likely with HR Representative who was the department's assigned HR representative at the time.

Chief Rad Oncol Ser recollection was that most of the discussion was directed at the inappropriate accessing of the medical record by Employee and the complaints about Secretary were secondary. He stated in the email,

"[a]t the time, I thought that Secretary was engaging in speculation based on something she had overheard from Whistleblower . I do not recall that Secretary actually said anything specific about Whistleblower health or her medical records. Furthermore, I also recall some speculations, on the part of Secretary that Whistleblower may have been upset about not being able to close on a house she was trying to purchase. All of these comments by Secretary I considered to be nothing more than gossip, and I did not question Secretary on these speculations further."

Chief Rad Oncol Ser was not sure if the memo was ever issued, but recalled that Act Admin Off in 2013 gave Secretary some verbal counselling to the effect that she should be more respectful of others privacy. He was not involved in the details of the counseling and felt Act Admin Off in 2013 could complete the task.

Pri . Privacy Officer is the Privacy Officer working for the Dallas, Texas, VAMC. She advised the IAP team of the following: the whistleblower came to her in July 2013, and requested an access report for the whistleblower's patient treatment records. On or about July 18, 2013, the whistleblower advised Privacy Officer that she believed that another employee, Employee , had improperly accessed her records in February 2013.

Due to this complaint, as well as Privacy Officer's own review of the patient record access documentation, Privacy Officer approached Employee's supervisor, Supv Rad Oncol Dept, as well as Supv Ther Rad Tech in the Radiology Oncology Department to see if there was a reason that Employee may have needed to access these records, but Supv Ther Rad Tech could think of no such reason. Employee was questioned as to why he accessed the records but he initially denied recalling accessing them. Employee later recanted, but stated that he had some reason to access the records based on his responsibilities as an ADPAC. Privacy Officer says that the incident with Employee was ultimately determined to be a privacy violation, a PSETS ticket was submitted and the VA Data Breach Core Team was notified. She later indicated that she thought she submitted a PSETS ticket but was not able to locate it.

On or about September 17, 2013, Privacy Officer issued a letter to the whistleblower advising her that her records were inappropriately accessed (Exhibit #2), and what her further rights were in regards to this situation. Privacy Officer does not believe that the whistleblower pursued the situation beyond that point. Privacy Officer was not involved in any conversations between managers within the Radiology Oncology Department and the HR Office related to what type of discipline to impose on Employee (if any) for improperly accessing patient medical records. Privacy Officer says that quite a few complaints about improper records access are submitted to her office each year, but generally about two per year are ultimately verified as inappropriate access, upon further investigation.

Secretary stated that she is the Unit Secretary for the Radiology Oncology Department, and worked in that position for approximately 7 months prior to July 2013. She reports to Chief Rad Oncol Ser. She advised the IAP team of the following: Secretary was present in an elevator on July 11, 2013, at approximately 12:30 p.m., when the whistleblower entered the elevator and appeared to be upset. The whistleblower made comments to the effect that she had received some bad news from her doctor, that she was having problems with closing on a home loan and might not have a place to live, and that she should just be like other Veterans and live off her VA disability pay. Secretary indicated that the whistleblower did say that she "should just kill herself." Med Admin Asst was also on the elevator and heard the whistleblower's comments. The whistleblower got off the elevator on a different floor, leaving Secretary and Med Admin Asst concerned about her condition and state of mind.

Several hours later that same day, Secretary saw the whistleblower standing by the elevators again and approached her. Secretary asked the whistleblower if supervisor Supv Ther Rad Tech was aware of what she said and the whistleblower replied that he was not aware of this. Secretary said that she would make Supv Ther Rad Tech aware, and the whistleblower responded that Secretary could advise Supv Ther Rad Tech of the situation. Prior to speaking with Supv Ther Rad Tech, Secretary discussed her concerns for the whistleblower with Employee, an employee within the Radiology Oncology Department who Secretary believes had responsibilities involving EEO activities. Employee also believed that Secretary should advise Supv Ther Rad Tech of the situation. At that point,

Secretary advised Supv Ther Rad Tech of the comments the whistleblower had made in the elevator. Secretary believes that Supv Ther Rad Tech asked the whistleblower if she made such comments because at approximately 3:00 p.m. Supv Ther Rad Tech came back to Secretary and advised her that the whistleblower denied making suicidal comments.

Towards the end of that work day, Supv Ther Rad Tech advised Secretary, Med Admin Asst, and Employee that he wanted them to accompany him in taking the whistleblower to the ER for an evaluation. Secretary also informed Chief Rad Oncol Ser of the situation around that time. The whistleblower continued to deny that she had made any suicidal statements in the elevator. Secretary did accompany Supv Ther Rad Tech and the whistleblower to the ER, but the whistleblower requested that the other employees not be present while she was being evaluated, so Secretary returned to the work area and ultimately went home for the evening. Approximately a week later Secretary was contacted by Act Admin Off in 2013 (who was serving as the administrative officer at that time) and asked to provide a statement about what had occurred with the whistleblower. Secretary provided a statement, and says that this was the last thing she heard about the situation. Secretary denies that she ever reviewed the whistleblower's medical records, or that she is aware of any medical conditions that the whistleblower may have. Secretary is the timekeeper for the Department, and in this capacity she is aware that the whistleblower takes sick leave for doctors' appointments, but Secretary does not know for what condition(s) the whistleblower sees the doctor.

Med Admin Asst stated that she is a medical support assistant for the Radiology Oncology Department, and she worked in that position for approximately 7 months prior to July 11, 2013. She reports to the administrative officer and Chief Rad Oncol Ser. She advised the IAP team of the following: she was coming back from lunch on July 11, 2013, and was riding on the elevator with Secretary. The whistleblower got on the elevator and appeared to be "fussing" about something. The whistleblower made a couple of statements such as, "I'm tired. I don't want to be here anymore. I'm sick of this." Med Admin Asst was not sure what the whistleblower was talking about, and Secretary asked the whistleblower if she was OK. The whistleblower made a couple of other comments about not having a place to live for herself and her dog. The whistleblower then exited the elevator and "punched" an exit button to leave the building.

Between 3:30 and 4:00 p.m. that afternoon, Supv Ther Rad Tech asked Med Admin Asst what the whistleblower had said in the elevator, and Med Admin Asst relayed to him what she had heard. Secretary was also present with Supv Ther Rad Tech at that time. Supv Ther Rad Tech said that the whistleblower had denied making the statements in the elevator. Med Admin Asst says that she was "puzzled" by this. Supv Ther Rad Tech asked Med Admin Asst, Secretary and Employee to accompany him while he took the whistleblower to the ER for an evaluation. Med Admin Asst recalls thinking, "What does Emp. have to do with this?" but she did not voice her concern aloud. The whistleblower continued to deny making the statements, but Med Admin Asst says that it became a situation of one person's story versus what others heard, and that by denying her statements, the whistleblower was essentially implying the both Secretary and Med Admin Asst had lied about the situation in the elevator, which they had not lied about.

Once the group arrived at the ER, the whistleblower did not want the others to be present during her evaluation, so [Med Admin Asst] returned to the work area and shortly thereafter left for the day. Prior to leaving that day, [Chief Rad Oncol Ser] asked [Med Admin Asst] to provide a written statement about what was said by the whistleblower in the elevator, and [Med Admin Asst] provided her statement to the Acting Administrative Officer, [Act Admin Off in 2013]. The only other conversation [Med Admin Asst] recalls having was with [Secretary], who told [Med Admin Asst] that [Secretary] had spoken to the whistleblower the same day about concerns relating to the whistleblower's health after the whistleblower had made the concerning statements in the elevator. [Secretary] told [Med Admin Asst] that [Secretary] had advised [Supv Ther Rad Tech] of her conversations with the whistleblower.

[Med Admin Asst] says that, since the July 2013 incident in the elevator, [Med Admin Asst] had limited her interactions with the whistleblower because the whistleblower had implied [Med Admin Asst] had been untruthful about the situation, and [Med Admin Asst] had not been untruthful in relaying what the whistleblower said and did in the elevator.

The whistleblower's coworkers, [Dosimetrist], and [Rad Ther Tech], were contacted by the IAP team. [Rad Ther Tech] is a radiation therapist who has worked for the Dallas VAMC for 11 years. [Dosimetrist] is a dosimetrist who has worked for the VAMC since 1990. They advised the IAP team of the following: neither [Dosimetrist] nor [Rad Ther Tech] was present on July 11, 2013, when the situation with the alleged suicidal statements by the whistleblower occurred. Both [Dosimetrist] and [Rad Ther Tech] acknowledge that they primarily learned about the situation after the fact in discussions that they had with the whistleblower. [Rad Ther Tech] stated, "I really only heard [Whistleblower] side of it."

[Dosimetrist] and [Rad Ther Tech] both indicated that they have not heard employees within the Radiology Oncology Department discussing the whistleblower's medical problems or conditions. Department employees have made some generally disparaging comments about the whistleblower. Most notable is [Employee]. [Rad Ther Tech] related that [Employee] refers to the whistleblower as "crazy" and makes comments such as, "There goes our girl, stirring up trouble again." Neither [Dosimetrist] nor [Rad Ther Tech] has heard [Supv Ther Rad Tech] make any comments or discuss anything related to the whistleblower's medical conditions. [Rad Ther Tech] thinks that [Supv Ther Rad Tech] is aware the whistleblower has medical problems by virtue of [Supv Ther Rad Tech] position as the whistleblower's supervisor, but [Supv Ther Rad Tech] has never discussed anything related to this with [Rad Ther Tech].

[Dosimetrist] says that, shortly after the whistleblower was hired, the whistleblower had a period of hospitalization and that some department employees visited the whistleblower in the hospital, but [Dosimetrist] did not visit the whistleblower at that time. [Rad Ther Tech] stated,

"I mean, it's not a secret that, you know, certain things that she has. And if a patient will bring up something she may say, oh, yeah, I'm on Coumadin too and, you know, this happens frequently or, you know, this is a side effect." [Rad Ther Tech] continued to state, "[s]he will tell me things as a friend

about her health conditions. And I know certain other people are aware of certain things that she has. But I don't know who all or, you know, how many people in the department.”

Both [Dosimetrist] and [Rad Ther Tech] commented on their beliefs that the Radiology Oncology Department is not a good place to work due to perceived divisions within the department. [Dosimetrist] described a “clique” of employees who have been hired by [Supv Ther Rad Tech] and [Chief Rad Oncol Ser], who received perceived preferential treatment in the form of higher salaries and retention bonuses. [Dosimetrist] and [Rad Ther Tech] believe that they work in a hostile work environment. Both [Dosimetrist] and [Rad Ther Tech] believe that the whistleblower is competent in her position as a radiation therapist. [Rad Ther Tech] believes that the whistleblower may be experiencing difficulties working within the Radiology Oncology Department because of the whistleblower’s military background with expecting a certain level of structure and precision, because “she's also a little black and white.”

V. Findings, Conclusions, and Recommendations

Allegation 1

Findings

The whistleblower reported a complaint of unauthorized access into her Veteran health record on February 26, 2013, by a fellow coworker, [Employee], to the facility Privacy Officer, [Privacy Officer] on August 19, 2013. [Privacy Officer] investigated the privacy complaint and determined that [Employee] did not have a need to access the whistleblower’s Veteran health record in the performance of his official VA duties on February 26, 2013. [Privacy Officer] responded to the whistleblower in writing per VHA policy to inform her of the outcome of the investigation into her privacy complaint on September 17, 2013. [Privacy Officer] provided the outcome of the investigation to [Employee]’ supervisor, [Supv Rad Oncol Dept], for appropriate disciplinary action to be taken. [Supv Rad Oncol Dept] worked with HR to determine the appropriate disciplinary action based on the VA Table of Adverse Penalties. As a result of the recommendations from HR, [Employee] was issued an Admonishment dated November 6, 2013, and filed in his Official Personnel Folder (OPF). [Employee] retired in August 2014, and the admonishment is no longer in his file. Admonishments remain in an employee’s file for 2 years unless there is a request to remove it after 6 months and the request is approved. It is likely that the admonishment was removed from [Employee]’ OPF per his request around or after May 2014; however, since he has retired the IAP team is unable to verify that information.

The whistleblower was not notified by [Privacy Officer] of the exact disciplinary action taken against [Employee] as this personnel information is protected by the Privacy Act, and [Privacy Officer] has no legal authority to share that information with a complainant.

Upon review of the actions taken by the facility Privacy Officer, **Privacy Officer**, it was determined that this privacy violation was not entered into PSETS as required by VA policy. As soon as the IAP Team discovered this oversight, the privacy violation was entered into PSETS for review by the Data Breach Core Team (DBCT) to determine if the privacy violation met the definition of a data breach. On September 16, 2014, the DBCT reviewed this privacy violation in PSETS and determined it did not meet the definition of a data breach (see Glossary).

Conclusions for Allegation #1

- VHA substantiated the allegation that an employee violated a Veteran's privacy by accessing the Veteran's patient medical records without proper authority or a need for the information in the performance of official duties related to treatment, payment or health care operations.
- VHA has determined that the substantiated allegation was already appropriately investigated and the employee who violated the Veteran's privacy was appropriately disciplined.

Recommendations

1. The Health Care System has already appropriately addressed this privacy violation and disciplinary action has been taken against the employee. However, the Privacy Officer did not enter the privacy violation in PSETS as required by VA policy. The Dallas VAMC Privacy Officer needs to be officially reminded of her responsibilities for timely reporting of privacy violations in PSETS. The VHA Privacy Officer officially informed the Dallas VAMC Privacy Officer of her responsibilities regarding privacy violations on October 8, 2014.

Status: This action is complete. As indicated, the VHA Privacy Officer officially informed the Dallas VAMC Privacy Officer of her responsibilities regarding privacy violations on October 8, 2014.

2. The VHA Privacy Office will create a form or bulletin titled, "Notice to Privacy Complainant" which will explain the complaint process and what information can be shared with a complainant regarding actions taken. The Notice to Privacy Complainant will be provided to an individual upon a submission of a privacy complaint to the Privacy Officer.

Status: The VHA Privacy Office created the Information Bulletin, IB 10-686 "Notice to Privacy Complainants" which was disseminated to the facility Privacy Officers on April 28, 2015.

Allegation 2

Findings

The allegation that [Supv Ther Rad Tech] disclosed the whistleblower's medical information to her coworkers stems from a confrontation at the end of the day on July 11, 2013, with [Supv Ther Rad Tech], [Secretary], [Med Admin Asst] and [Employee]. The events leading up to that confrontation, as well as the details of the confrontation are as follows:

On July 11, 2013 there was communication between the whistleblower [Secretary] and [Med Admin Asst] in a facility elevator around lunch time. Statements made by the whistleblower were taken in a manner by [Secretary] to lead her to believe [Whistleblower] wanted to hurt or kill herself. [Secretary] did not take any action at the time. Later in the day [Secretary] saw the whistleblower outside the elevator in the Radiology Oncology area and asked if she could inform [Supv Ther Rad Tech], the whistleblower's supervisor, of the whistleblower's statements. The whistleblower stated "yes" as she thought [Secretary] was talking about the statements regarding quitting her job. [Secretary] proceeded to inform [Supv Ther Rad Tech] around 3-3:30 p.m. of the statements made by the whistleblower about hurting herself. [Supv Ther Rad Tech] confronted the whistleblower who denied any such statements and stated she was a fighter. During this time, [Secretary] also informed [Chief Rad Oncol Ser], Chief Radiation Oncology Department, of the whistleblower's statements and that she had reported the statements to [Supv Ther Rad Tech]. [Chief Rad Oncol Ser] was seeing patients at the time and continued with his clinical duties. [Supv Ther Rad Tech] went back to [Secretary] to confirm her understanding of the statements and [Secretary] reiterated that the whistleblower indicated she wanted to hurt or kill herself. [Secretary] recommended speaking with [Med Admin Asst] as she was also present in the elevator. [Supv Ther Rad Tech] spoke to [Med Admin Asst] who indicated that the whistleblower in the elevator stated "she did not want to be here anymore." At the time of the statement [Med Admin Asst] did not think it meant the whistleblower wanted to hurt or kill herself. This was the only statement [Med Admin Asst] heard at the time relevant to the discussion on potential suicidal thoughts. The other statements dealt with issues around a house closing.

Based on this statement from [Med Admin Asst] and [Secretary]'s insistence that the whistleblower indicated she was going to hurt or kill herself in both their conversations, [Supv Ther Rad Tech] asked [Secretary] and [Med Admin Asst] to accompany him to confront the whistleblower. At some point [Supv Ther Rad Tech] also asked [Employee] to join the conversation due to his position as a Union Representative. Around 4:00 p.m., [Supv Ther Rad Tech] confronted the whistleblower in the old patient waiting room, which is an open area, in front of the elevators in the Radiology Oncology area. No employees other than those present or patients were visible to the group, though an employee break room is around the corner only about five feet from this waiting room. The whistleblower again denied she made any statements indicating she would hurt or kill herself. [Supv Ther Rad Tech] decided to take the whistleblower to the ER for evaluation of potential suicidal

thoughts and ideation. [Supv Ther Rad Tech] asked [Secretary], [Med Admin Asst] and [Employee] to accompany them to the ER in case their testaments to the statements were needed. It is unclear if [Employee] ever made it to the ER with the group. Once at the ER, the nurse asked the whistleblower if she wanted her coworkers present for her exam and discussion and the whistleblower indicated no. As requested, [Supv Ther Rad Tech], [Secretary] and [Med Admin Asst] stepped out the room and waited. At some point later around 4:30 p.m., [Chief Rad Oncol Ser] arrived in the ER to find out what has happened with the situation. Since the workday was ending, [Chief Rad Oncol Ser] informed [Secretary] and [Med Admin Asst] they could go home but ordered them to write a statement or ROC about the events of the day. [Chief Rad Oncol Ser] and [Supv Ther Rad Tech] waited a little longer, but soon left. The whistleblower was evaluated by the ER Physician and cleared as it was determined that she was not having suicidal thoughts or ideation. The whistleblower presented to work the next day, July 12, 2013, at her normal tour of duty.

As a result of the July 11, 2013, confrontation the whistleblower requested and received a SPAR from the facility Privacy Officer, [Privacy Officer]. The whistleblower's review of the SPAR showed that [Employee] accessed her health record on February 26, 2013. The whistleblower filed a privacy complaint with [Privacy Officer] which is discussed further under Allegation 1.

Of the individuals present during the confrontation on July 11, 2013, and interviewed, only the whistleblower stated that her medical information was discussed. [Supv Ther Rad Tech], [Secretary] and [Med Admin Asst] all denied that the whistleblower's medical information was discussed and claimed that only the statements from the elevator conversations around alleged suicidal thoughts and ideations were discussed by the group. [Supv Ther Rad Tech] inclusion of [Secretary] and [Med Admin Asst] in the discussion with the whistleblower regarding the alleged statements about hurting or killing herself is also not a disclosure of the whistleblower's personal information as [Secretary] and [Med Admin Asst] were already aware of that information as they are the ones who allegedly heard the statements directly from the whistleblower.

[Supv Ther Rad Tech] denied discussing the whistleblower's medical information at any other time with anyone. The whistleblower's coworkers whom she asked the IAP Team to interview, [Dosimetrist] and [Rad Ther Tech], indicated that they have never heard [Supv Ther Rad Tech] or anyone else in the service discuss the whistleblower's medical information.

The IAP team found that it was not inappropriate or unreasonable for [Supv Ther Rad Tech] to request that [Secretary] and [Med Admin Asst] accompany them to the ER. [Supv Ther Rad Tech] was concerned that medical personnel performing an evaluation would want to know the circumstances that gave rise to the concern regarding alleged suicidal ideation. [Supv Ther Rad Tech] took the Whistleblower to the ER as that is the policy for handling a Veteran making suicidal statements. Beyond accompanying the whistleblower to the ER, [Supv Ther Rad Tech], [Secretary] and [Med Admin Asst] did not participate in nor were they privy to the evaluation of the whistleblower by ER staff.

Based on the testimony obtained, the IAP Team could not substantiate the allegation that **Supv Ther Rad Tech** shared or disclosed the whistleblower's medical information with coworkers. In the opinion of the IAP Team, it is possible that general statements about the whistleblower may have been made during the confrontation by **Secretary**, her Timekeeper, such as "you had a doctor appointment this morning", that led the whistleblower to think her medical record had been accessed by **Secretary** and her medical information shared. In addition, the whistleblower indicated in her testimony that **Secretary** made statements that were both accurate and inaccurate about her health issues. This also leads the IAP Team to speculate that **Secretary** may have made statements based on conjecture or information obtained from the whistleblower's confidants within the department and not facts obtained from the whistleblower's medical record. However, none of the individuals interviewed nor the ROC forms reviewed revealed the exact dialogue of the confrontation on July 11, 2013, for the IAP Team to assess what information was actually discussed.

In addition, the IAP Team confirmed through the SPAR in the Veterans Health Information System and Technology Architecture (VistA) that no one in the Radiation Oncology Department other than **Employee** has ever accessed the whistleblower's medical record. This is irrefutable evidence that **Secretary** and **Supv Ther Rad Tech** have never accessed the whistleblower's medical record and could not have obtained medical information from such record, which is maintained in VistA.

Finally, although **Chief Rad Oncol Ser**, ordered **Secretary** to be disciplined for accessing the records, this discipline consisted of verbal counseling about the importance of protecting patient records privacy. While this counseling was documented in writing (**Exhibit #5**), it was not made a part of **Secretary**' OPF. Based on the foregoing conclusion that **Secretary** and **Supv Ther Rad Tech** have never accessed the whistleblower's medical record, this outcome is appropriate.

Conclusions for Allegation #2

- VHA could not substantiate that **Supv Ther Rad Tech** disclosed the whistleblower's medical information to her coworkers.

Recommendations

1. Though VHA could not substantiate the allegation, the facility Privacy Officer should provide an in-service training on privacy policies and practices to the Radiation Oncology Department to remind its employees of their responsibilities in protecting the privacy of our Veterans, including those who are also employees or coworkers.

Status: The Dallas VAMC Privacy Officer conducted an in-service privacy training to the Radiation Oncology Department on February 6, 2015. All Radiation Oncology Department employees were present.

Glossary

Data breach:

(1) The VA-specific definition of the term “data breach” in 38 U.S.C. § 5727(4) is “the loss, theft, or other unauthorized access, other than those incidental to the scope of employment, to data containing [SPI], in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data.”

(2) OMB Memorandum M-07-16, “*Safeguarding against and Responding to the Breach of Personally Identifiable Information*,” issued May 22, 2007, uses the term “breach.” Footnote 5 of the Memorandum explains that “the term ‘breach’” is used to include the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic.” The OMB Memorandum specifically states that a breach occurs when: “An individual gains logical or physical access without permission to a federal agency network, system, application, data, or other resource; or there is a suspected or confirmed breach of personally identifiable information regardless of the manner in which it might have occurred.”

(3) The HITECH ACT (Health Information Technology for Economic and Clinical Health Act) defines a breach as the “unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not have reasonably have been able to retain such information.” 42 U.S.C. § 17921(1).

(4) Interim regulations promulgated by the Department of Health and Human Services (HHS) clarified that “compromises the security or privacy of . . . protected health information,” is limited to those instances where there is a “significant risk of financial, reputational, or other harm to the individual.” 45 CFR § 164.402 (2010) (interim final regulation).

(5) While the three definitions of a data breach (or breach) use slightly different phrasing, they generally refer to unauthorized access to sensitive personal information that results in the potential compromise of the confidentiality or integrity of the information. Consequently, the VA DBCT uses the VA-specific term, data breach, and its definition in determining whether the reported event constitutes a data breach that the DBCT reviews to decide whether VA has to notify the record subjects of the event and offer them credit protection services.

Data Breach Core Team: The DBCT is a multi-disciplinary group chaired by the Director, Incident Resolution Service, within the Office of the Deputy Assistant Secretary for Information Security. The DBCT has oversight responsibilities for data breaches which it adjudicates to determine impact and reporting requirements.

Individually-identifiable Health Information. Individually-identifiable health information is a subset of health information, including demographic information collected from an individual, that is: (1) Created or received by a health care provider, health plan, or health care clearinghouse; (2) Relates to the past, present, or future condition of an individual and provision of or payment for health care; and (3) Identifies the individual or a reasonable basis exists to believe the information can be used to identify the individual.

Sensitive Personal Information (SPI): Information that: (1) Is maintained by an agency; (2) Is about an individual, such as education, financial transactions, medical history, protected health information, and criminal or employment history, and information that can be used to distinguish or trace the individual's identity (Personally Identifying Information – PII), including name, social security number, date and place of birth, mother's maiden name, or biometric records; and (3) Requires protection due to the risk of harm that could result from inadvertent or deliberate disclosure, alteration, or destruction of the information. Includes records about individuals requiring protection under applicable confidentiality provisions.

Personally Identifiable Information (PII): Any information which can be used to distinguish or trace an individual's identity, such as name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. (See Sensitive Personal Information, above).

Protected Health Information (PHI): The HIPAA Privacy Rule defines PHI as Individually Identifiable Health Information transmitted or maintained in any form or medium by a covered entity, such as VHA.

Veterans Health Information Systems and Technology Architecture (VistA): VistA is an enterprise-wide information system built around the EHR used in VHA. It consists of nearly 200 integrated software modules for clinical care, financial functions, and infrastructure.

Attachment A
Documents Reviewed by IAP

1. Department of Veterans Affairs, VA Handbook 6500.2, January 6, 2012, *Management of Data Breaches Involving Sensitive Personal Information (SPI)*.
2. Department of Veterans Affairs, VA Handbook 6502.1, *Privacy Event Tracking*, February 18, 2011.
3. Department of Veterans Affairs, Veterans Health Administration, VHA Directive 1605, April 11, 2012, *VHA Privacy Program*.
4. Department of Veterans Affairs, Veterans Health Administration, VHA Handbook 1605.1, May 2006, *Privacy and Release of Information*.
5. Report of Contact from Whistleblower [REDACTED] and documents, including progress notes, submitted to the Office of Resolution Management by Whistleblower [REDACTED] and provided to the IAP Team by Whistleblower [REDACTED] as confirmation of her testimony. Due to the sensitive nature of these documents, they are not included in the report but are available for review.

Attachment B Exhibits

Exhibit #1 – Medical Records provided by Whistleblower to the IAP Team. Due to the sensitive nature of these documents, they are not included in the report but are available for review.

Exhibit #2 – Letter from Privacy Officer to Whistleblower and the requested SPAR; the September 17, 2013, privacy complaint response letter from Privacy Officer to Whistleblower; and follow-up emails. Due to the sensitive nature of the document, the SPAR report provided to Whistleblower is not included in the report, but is available to review.

Exhibit #3 – Emails between Act Admin Off in 2013 and Whistleblower regarding a Report of Contact form

Exhibit #4 – Whistleblower Report of Contact form. Due to the sensitive nature of these documents, they are not included in the report but are available for review.

Exhibit #5 – Whistleblower August 19, 2013, written privacy complaint

Exhibit #6 – Memo and Verbal Counseling to Secretary



DEPARTMENT OF VETERANS AFFAIRS
North Texas Health Care System



July 18, 2013

In Reply Refer to: 00/Privacy

Whistleblower

You will find enclosed, the Access Report you requested showing the individuals who have accessed your medical record during the timeframe of December 1, 2011 to today (7/18/13).

If during your review of these documents, you come across names that you question, please let me know so follow up with those individuals can occur.

If a privacy violation is found, it will be documented, and as applicable, appropriate actions taken.

Sincerely,

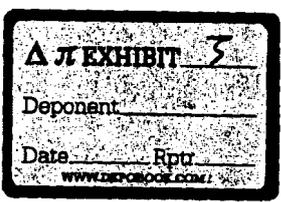
Privacy Officer

(214) 857-1432

*Chronological Date + Time
thing that has happened.*

Whistleblower

From: Act Admin Off in 2013
Sent: Friday, July 12, 2013 2:46 PM
To: Whistleblower
From: Chief Rad Oncol Ser Supv Ther Rad Tech
Subject: Report of Contact (ROC)
Attachments: Report of Contact.doc
Importance: High



Good Afternoon,

I have attached a Report of Contact form for you to fill out stating your recollection of events from the afternoon of 7/11/2013. You can write two different ROC's for the incidents in question. Please return these to me as soon as possible. Thank you for your time and attention.

Respectfully Yours,

Act Admin
Off in 2013
Acting Administrative Officer-Radiation Oncology
Health Systems Specialist Trainee
MHN 17 Department of Veterans Affairs
Texas Health Care System
Phone: 214-857-0148
Fax: 214-448-5276
[Redacted]@VA.gov

Whistleblower

From: Act Admin Off in 2013
Date: Monday, July 15, 2013 11:34 AM
To: Whistleblower
From: Supv Ther Rad Tech Chief Rad Oncol Ser
Subject: Report of Contact

Good Afternoon Whistleblower,

Please send your Report of Contact forms as soon as possible so I can take further action on the matters from last week.
Thank you.

Respectfully Yours,

Ac
Acting Administrative Officer-Radiation Oncology
Health Systems Specialist Trainee
SN 17 Department of Veterans Affairs
Texas Health Care System
Phone: 214-857-0148
Fax: 214-448-5276
VA.gov

Whistleblower

From: Act Admin Off in 2013
Sent: Tuesday, July 16, 2013 10:34 AM
To: Whistleblower
Subject: Re: Updated ROC

Thank you. I will update you within a day or two.

From: Whistleblower
Sent: Tuesday, July 16, 2013 10:21 AM
To: Act Admin Off in 2013
Subject: RE: Updated ROC

I had forgotten one thing on the Report of Contact, so I added the information and updated the form. Thanks, Whistleblower
Goulding

From: Whistleblower
Sent: Monday, July 15, 2013 11:34 AM
To: Whistleblower
Cc: Supv Ther Rad Tech; Chief Rad Oncol Ser
Subject: Report of Contact

Good Afternoon Whistleblower

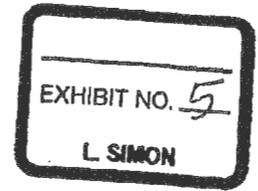
Please send your Report of Contact forms as soon as possible so I can take further action on the matters from last week.
Thank you.

Respectfully Yours,

Act Admin Off
in 2013
Acting Administrative Officer-Radiation Oncology
Health Systems Specialist Trainee
MHN 17 Department of Veterans Affairs
North Texas Health Care System
Phone: 214-857-0148
Cell: 214-448-5276
Act Admin Off in 2013
[redacted]@VA.GOV

Whistleblower

Radiation Oncology
VANTHCS
4500 S. Lancaster Rd.
Dallas, TX 75216



8/19/2013

Privacy Officer

Privacy Officer
VANTHCS
4500 S. Lancaster Rd.
Dallas, TX 75216

Dear Privacy Officer;

After review of the access report you provided me, I have found a coworker did access my file.
Please see attached record. The coworker is Employee .

You may reach me in Radiation Oncology ext. 74226

Whistleblower

[Redacted signature block]

**Department of
Veterans Affairs**

Memorandum

DATE: July 17, 2013

FROM: Acting Administrative Officer ^{Act Admin Off in 2013} (140)

SUBJ: Disciplinary Action Request

TO:

THRU: Chief, Radiation Oncology (140)

On July 11, 2013, I was informed that a disabled veteran's, who is also a federal employee, private medical information was disclosed to various employees in the Radiation Oncology service without the veterans' permission.

Around 12:30 that afternoon, two employees of the Radiation Oncology department, ^{Med Admin Asst} and ^{Secretary}, told me that fellow employee ^{Whistleblower} made some statements about her harming herself. Both were concerned about the statements and I advised them to report this to her supervisor, ^{Supv Ther Rad Tech}

Later on that day, I received notice that ^{Secretar}, ^{Med Admin Asst} ^{Whistleb} ^{Supv Ther Rad Tech}, and ^{Employee} went down to the ER so ^{Whistle} could be evaluated. I informed ^{Secretary} and ^{Med Admin Asst} to write a Report of Contact and send to me and ^{Chief Rad Oncol Ser} when they were finished.

On July 12, 2013, I received notice that ^{Secretary} openly revealed medical information about ^{Whistleblower} that should not have been said. I knew this was a violation of the Privacy Act and needed to take further action. After speaking with ^{Whistle}, she claimed her private medical information was "shouted" to various employees by ^{Secretary}. She also informed me when was discriminated against because she is a disabled veteran and also, taken against her will to the ER.

I authorize a disciplinary action be taken against ^{Secretar} ^{Secret}. The nature of offense is a Violation of Privacy Act. This is a first offense for ^{Secretary} so I request an action of reprimand.

CONFIRMATION OF ORAL COUNSELING

To: Secretary SECRETARY-RADIATION ONCOLOGY Date: July 12, 2013

From: Act Admin Off in 2013 ADMINISTRATIVE OFFICER- RADIATION ONCOLOGY

This document and attachments comprise the written documentation of Oral Counseling. This counseling is being issued as a result of unacceptable conduct or performance on your part, more fully discussed below.

Around the month of June Secretary disclosed PI sensitive information about an employee in the Radiation Oncology service. It is to my knowledge, Secretary was not granted permission from the employee in question to disclose her medical sensitive information to anyone.

Secretary was told to not disclose any more information about the employee to anyone in the future, as that can pose a critical issue for the service and her. She made clear that she understood what was being told to her.

(If more space is needed, please attach additional page(s))

PLAN OF CORRECTION:

In the future, in order to improve your conduct or performance, you shall:

Employee will not disclose any PI sensitive information to anyone else on or outside of the workplace. If this is to happen again, corrective/ disciplinary action will be taken and a thorough investigation will be made.

(If more space is needed, please attach additional page(s))

This Confirmation of Oral Counseling will be kept by the supervisor and may be used as the basis or future discipline.

Signed: _____
Employee

Signed: _____
Supervisor