DEPARTMENT OF VETERANS AFFAIRS
Washington DC 20420

June 3, 2014

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-13-2396

Dear Ms. Lerner:

I am responding to your letter regarding allegations made by a whistleblower at the Villages Outpatient Clinic of the Malcolm Randall VA Medical Center, (hereafter, the Medical Center) in Gainesville, Florida. The whistleblower alleged that nurses at the Medical Center may have violated laws, rules, or regulations; engaged in gross mismanagement; and endangered public health and safety by entering orders in patient records and serving in place of physicians in the Clinic. 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 asked the Under Secretary for Health to review this matter and to take any actions deemed necessary under the above code. He, in turn, directed the Office of the Medical Inspector (OMI) to conduct an investigation. In its investigation, OMI reviewed 445 of the 1,232 orders and consults entered in patients' records by the podiatry nurse: OMI found no instances of her exceeding the whistleblower's treatment plan for each patient or using any but her own electronic signature on the notes, nor did it find evidence of inappropriate behavior by any other Clinic nurse. OMI's review of the documentation revealed no lapses in physician coverage in the various sections of the Clinic, nor any instances of fraud in Medicare Home Health Program referrals. In short, OMI was unable to substantiate any of the whistleblower's allegations.

OMI found neither violations of laws, rules, or regulations; gross mismanagement; or a substantial or specific danger to public health and safety. OMI made six recommendations for clarification of standards and documentation.

Findings from the investigation are contained in the report, which I am submitting for your review. I have reviewed these findings and we are implementing the recommendations in the report.

Thank you for the opportunity to respond.

Sincerely,

Jose D. Riojas
Chief of Staff

Enclosure

OFFICE OF THE MEDICAL INSPECTOR
Report to the
Office of Special Counsel
File Number DI-13-2396

Department of Veterans Affairs
Malcolm Randall Veterans Affairs Medical Center,
Gainesville, Florida:
The Villages Outpatient Clinic,
The Villages, Florida

Veterans Health Administration
Washington, DC

Report Date: April 4, 2014
TRIM 2014-D-361

Executive Summary

The Under Secretary for Health (USH) requested that the Office of the Medical Inspector (OMI) investigate allegations made by (b) (6) (hereafter, the whistleblower) to the Office of Special Counsel (OSC) concerning the Villages Outpatient Clinic (hereafter, the Clinic), in The Villages, Florida. The Clinic's parent facility is the Malcolm Randall Veterans Affairs (VA) Medical Center (hereafter, the Medical Center) in Gainesville, Florida. The whistleblower, the former Chief of Podiatry, alleged that employees are engaging in conduct that may constitute violations of laws, rules, or regulations, and gross mismanagement which may lead to a substantial and specific danger to public health. OMI conducted a site visit to the Medical Center and the Clinic on March 11–13, 2014.

Summary of Allegations

The whistleblower alleged that:

1. A registered nurse (RN) at the Podiatry Clinic regularly engages in conduct that is outside of the scope of her authority in violation of VA rules and state licensing requirements.

2. Registered nurses in other departments may be engaging in similar conduct.

3. Nurses are used to staff clinics when physicians are unavailable, raising concerns about the lack of physician oversight at the facility and physician staffing levels, which may be insufficient to meet the demands and needs of the patient population.

Prior to OMI's site visit, the whistleblower made an additional allegation that the podiatry nurse engaged in unauthorized completion of Medicare Home Health Program forms.

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

Conclusions

OMI did not substantiate the allegation that an RN in the Podiatry Clinic consistently engaged in conduct that was outside the scope of her practice in violation of VA rules. Although the *Podiatry RN Scope of Practice/Roles and Responsibilities* does not specifically identify which orders and consultations the nurse is allowed to enter, it does state that the nurse's responsibility includes placing "consults/orders according to *Outpatient Clinic Nursing Guidelines*," which in turn states that nurse generated consultations/orders are to be ordered in accordance with Medical Center Memorandum (MCM) 118-21, *Protocol Orders for Nurses in Ambulatory Care and Outpatient Clinics.* The MCM authorizes outpatient RNs to enter protocol orders and

consultations to manage care in an expeditious manner. Although there were no written protocols in place, verbal protocols had been established prior to opening the Podiatry Clinic.
(Addresses allegation1)

- OMI did not substantiate that the podiatry nurse entered medical information or treated patients under the whistleblower's name without her permission. OMI reviewed documentation in the medical record that indicated items or services ordered by the podiatry nurse were included in the whistleblower's plan of care.
(Addresses allegation 1)

- OMI did not substantiate that the podiatry nurse was using the whistleblower's or any other provider's electronic signature when signing orders. Some of the orders entered electronically on behalf of the whistleblower were released with the authority that the signature was "ON CHART, with written orders." None of the RN's orders reviewed by OMI displayed the whistleblower's signature.
(Addresses allegation 1)

- Clinic leadership's actions to address the whistleblower's concerns with the podiatry nurse were not sufficiently documented.
(Addresses allegation 1)

  OMI did not substantiate that RNs in other departments engaged in conduct outside the scope of their authority.
(Addresses allegation 2)

- OMI did not substantiate either the allegation that nurses were used to provide care when physicians were unavailable, or that physician oversight and physician staffing levels at the facility were insufficient to meet the demands and needs of the patient population.
(Addresses allegation 3)

- OMI did not substantiate Medicare fraud related to Medicare Home Health Program referrals.
(Addresses allegation 4)

Recommendations

The Medical Center should:

1. Review and revise *Podiatry RN Scope of Practice/Roles and Responsibilities* to ensure clear guidance is provided for specialty clinic nurses concerning entering orders and consultation requests. If any changes are made, provide training, monitor for compliance, and address non-compliance as indicated.

2. Ensure that new employee orientation for nurses and providers includes training about MCM 118-21, emphasizing order and consultation entry expectations for nurses. Ensure that established nurses and providers are aware of the guidelines and policies pertaining to order and consultation entry expectations. Compliance should be monitored and non-compliance addressed as indicated.

Summary Statement

OMI's investigation and review of findings did not identify violations or apparent violations of statutory laws, mandatory rules, or regulations.

I. Introduction

The USH requested that OMI investigate allegations made by the whistleblower to OSC concerning the Clinic in The Villages, Florida. The Clinic's parent facility is the Medical Center in Gainesville, Florida. The whistleblower alleged that employees are engaging in conduct that may constitute violations of laws, rules, or regulations, and gross mismanagement, which may lead to a substantial and specific danger to public health. OMI conducted a site visit to the Medical Center and the Clinic on March 11–13, 2014.

II. Facility Profile

Opened in 2010, the Clinic is an outpatient clinic that provides primary care, dental, optometry, audiology/speech pathology, diagnostic imaging, physical medicine and rehabilitation, pharmacy, laboratory, and prosthetic/sensory aid services. It also provides specialty care, including gynecology, dermatology, gastroenterology, urology, pulmonology, and cardiology care; podiatric care is not currently offered due to the absence of a podiatrist. During fiscal year (FY) 2011, 12,938 unique Veterans were seen for a total of 76,897 visits. During FY 2012, the Clinic provided care for 14,793 unique Veterans for a total of 98,101 visits. The Clinic is approximately 65 miles from the Medical Center in Gainesville, Florida.

III. Conduct of Investigation

An OMI team consisting of (b) (6) M.D., Medical Investigator; (b) (6) RN, Special Assistant to the Medical Inspector; (b) (6) nurse practitioner (NP), Clinical Program Manager; and (b) (6) RN, Clinical Program Manager, conducted the site visit and reviewed reports, memorandums, and other relevant documents. A list of these documents is included in the Attachment.

The whistleblower was interviewed by telephone prior to the OMI site visit.

OMI held an entrance briefing at the Medical Center with the Medical Center leadership including: (b) (6) Director; (b) (6) Deputy Director; (b) (6) (b) (6) M.D., Deputy Chief of Staff; (b) (6) Acting Assistant Director; (b) (6) Chief, Performance Improvement; (b) (6) Assistant Director, Outpatient Clinics and Planning; the current Acting Chief Operations Officer, Veterans Integrated Service Network (VISN) 8; and, by telephone, (b) (6) Deputy Quality Management Officer, VISN 8. While at the Medical Center, OMI conducted interviews with the Deputy Chief of Staff, and (b) (6) Assistant Chief, Clinical Informatics.

On the second day of the site visit, OMI traveled to the Clinic to tour the primary care clinic area and some specialty clinic areas including podiatry and the pharmacy waiting area.

After the tour, OMI held individual interviews with the following staff:

- (b) (6) M.D., Chief, Primary Care
- (b) (6) RN, Primary Care
- (b) (6) RN, Nurse Manager for the Specialty Clinics
- (b) (6) RN, Patient Aligned Care Teams (PACT) Coordinator
- (b) (6) RN, Nurse Educator for the Clinic
- (b) (6) RN, Gastrointestinal Specialty Care Clinic Nurse
- (b) (6) RN, Chief Nurse, Satellite and Outpatient Clinics
- (b) (6) RN, PACT Nurse
- (b) (6) Supervisor, Prosthetics
- (b) (6) Medical Support Assistant at the time the whistleblower was the Chief of Podiatry
- (b) (6) M.D., PACT provider
- (b) (6) RN, Podiatry Nurse
- (b) (6) RN, Assistant Chief Nurse for the Clinic
- (b) (6) M.D., PACT provider who was unavailable to cover her clinic for a time due to illness
- (b) (6) M.D., Chief Medical Officer for the Clinic
- (b) (6) Assistant Director, Outpatient Clinics and Planning, and the current Acting Chief Operations Officer, VISN 8
- (b) (6) Administrative Officer for the Clinics
- (b) (6) M.D., Chief of Staff

OMI held an exit briefing at the Clinic with the Clinic's Chief Medical Officer; Chief, Performance Improvement; and the following Medical Center staff by telephone: Director; Deputy Director; Chief of Staff; (b) (6) Acting Associate Director, Patient Care Services; Deputy Chief of Staff; Acting Assistant Director; (b) (6) Associate Director, Lake City VA Medical Center; (b) (6) Quality Management Office, VISN 8; and the Assistant Director, Outpatient Clinics and Planning, and the current Acting Chief Operations Officer, VISN 8.

IV. Background

Podiatry is a field devoted to the diagnosis and treatment of disorders of the foot and ankle. A doctor of podiatric medicine or podiatrist receives specialized education and training from a college of podiatric medicine. Their education, training, and practice are limited to the care of foot and ankle conditions. The podiatrist is responsible for the oversight of patient care in the clinic, assessment, diagnosis, treatment, and consultation with other services as indicated.

At the Clinic, podiatry services included providing prescription medications, orthopedic devices such as orthotics, excisional debridement, minor invasive procedures, and routine nail care and trimming. Podiatry Clinic staff consisted of a podiatrist, an RN, and clerical staff. The whistleblower began her employment at the Clinic in (b) (6) 2011.

The RN assigned to podiatry (hereafter, the podiatry nurse) has over 30 years of experience as an RN, and is currently licensed in the State of Florida. According to Florida's Nurse Practice Act, an RN is considered a professional nurse and defines the practice of professional nursing as the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill, and includes the observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others; and the administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of the state to prescribe such medications and treatments. The statutes add that a professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing. The podiatry nurse had no previous experience at a VA medical facility, working in a clinic, or caring for patients requiring podiatric care. Once employed by VA, she received training about podiatric care and procedures at the Medical Center. The whistleblower and the podiatry nurse both began their employment at the Clinic in (b) (6) 2011. Verbal protocols were established prior to opening the Podiatry Clinic.

In FY 2013, the Podiatry Clinic provided care to 408 unique Veterans who had 597 individual clinic visits. During Podiatry Clinic visits, the whistleblower provided most of the direct patient care, including wound assessment, debridement, Dermagraft® and EpiFix® application, and measurement for orthotics.[1] The podiatry nurse prepared patients for examinations, documented in the electronic health record the whistleblower's verbalized findings, and prepared patients for discharge, which entailed requesting consultations for supplies and equipment and preparing discharge instructions.

Modeled after the patient-centered medical home model of care, the Veterans Health Administration (VHA) created PACTs to provide Veterans with primary care that is patient-centered, team-based, comprehensive, and coordinated. Allowing nurses to function at their highest capacities, under the statutes of their state nursing licenses, is a tenet of the PACT model. Within PACT, nursing staff is expected to function at the highest level permissible by their state licensure and facility policies. According to VHA Handbook 1101.10, *Patient Aligned Care Team (PACT) Handbook*, an RN is responsible for ensuring ongoing, continuous care of one or more assigned panel(s) of Veterans, ensuring appropriate evaluation and access is provided to patients assigned to the patient panel, identifying patient needs, discussing nursing recommendations with the provider, and entering consultation requests and orders in the computerized patient record system (CPRS) for tests per approved standardized RN care management protocols or provider orders. They are expected to participate in modes of

[1] Dermagraft® and EpiFix® are commercially available dermal substitutes used to promote healing of difficult wounds. Dermal substitutes replace some aspect of the skin's structure and function to promote healing and wound closure without resorting to the discomfort associated with skin grafting. They were developed as an alternative to skin grafts for burn patients. *Skin Substitutes for Treating Chronic Wounds, Agency for Healthcare Research and Quality*, December 18, 2012. http://www.ahrq.gov/research/findings/ta/skinsubs/HCPR0610_skinsubst-final.pdf.

communication and care delivery including, but not limited to, secure messaging, telephone care, view alerts management, shared medical appointments, clinical video telehealth visits, and face-to-face visits. They are also responsible for collaborating with informatics technology staff to develop and implement systematized, electronically supported, standardized, tools to support PACT care delivery processes (e.g., pre-visit reminder calls, post-hospitalization follow-up calls, recall scheduling procedures, new patient orientation, disease registries, and primary care protocols for chronic disease management) providing all aspects of professional nursing services consistent with licensure, certification, nursing professional standards of practice, and the provider's functional statement with elements of practice. This high level function enables the team to deliver highly efficient and effective care management and coordination for all PACT patients.

The Medical Center and Clinic have developed PACT protocols to guide nursing practice in providing care to patients, e.g., standard order entry to ensure timely screening for potential complications in patients with diabetes. PACT nurses are expected to enter orders based upon protocols in accordance with MCM 118-21, *Protocol Orders for Nurses in Ambulatory Care and Outpatient Clinics.*

Although the *Podiatry RN Scope of Practice/Roles and Responsibilities* does not specifically identify which orders and consultations the nurse is allowed to enter, it does state that the nurse's responsibility includes placing "consults/orders according to *Outpatient Clinic Nursing Guidelines*," which in turn states, "that nurse generated consultations/orders are in accordance with, MCM 118-21, *Protocol Orders for Nurses in Ambulatory Care and Outpatient Clinics*." The MCM authorizes outpatient RNs to enter protocol orders and consultations to manage care in an expeditious manner.

Order-entry is a three-step process that requires staff to access CPRS with individually assigned access codes, to enter the orders, and to electronically sign them using another individually assigned signature code. All orders, including those for patient-care items and consultation requests, contain the name of the individual entering the order and the licensed independent provider (LIP) legally responsible for requesting or authorizing the order.[2] The clinician entering the order is allowed to perform this process, per Medical Center policy, in accordance with his/her training and licensure. When the LIP enters and signs the order, his/her name will be recorded in CPRS. When a non-LIP enters an order, both his/her name and the LIP's name are contained within the details of that order.

Under PACT protocols, as described above, some orders allow for authorized order entry by an RN. In these situations, documentation in the signature section indicates that the order falls within approved protocols.

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[2] The most notable LIPs are physicians and dentists; podiatrists are LIPs. An example of a non-physician LIP is an advance practice RN, commonly referred to as an NP.

Additionally, based upon documentation by the LIP in the medial record, other orders are allowed to be entered by an RN. In such cases, the person entering the order can designate it for release without requesting any additional review. In these situations, the signature section will display the name of the person who entered and signed the order, and will show that the order was signed "ON CHART with written orders," indicating documentation for the item ordered is in a provider's note.

Manual entry of another individual's electronic signature is not possible unless the enterer has the other individual's access and signature codes. VHA prohibits sharing access codes and signature codes with other individuals.

V. Allegations provided by OSC

The whistleblower alleged that:

1. A registered nurse (RN) at the Podiatry Clinic regularly engages in conduct that is outside of the scope of her authority in violation of VA rules and state licensing requirements.

2. Registered nurses in other departments may be engaging in similar conduct.

3. Nurses are used to staff clinics when physicians are unavailable, raising concerns about the lack of physician oversight at the facility and physician staffing levels, which may be insufficient to meet the demands and needs of the patient population.

VI. Findings

Allegation 1

A registered nurse (RN) at the Podiatry Clinic regularly engages in conduct that is outside of the scope of her authority in violation of VA rules and state licensing requirements.

The whistleblower was hired at the Clinic in (b) (6) 2011. The accepted clinical practice at that time included the podiatry nurse functioning as a scribe while the whistleblower examined patients and verbalized her findings. The podiatry nurse's duties covered documenting the examination, assessment, and treatment plan including any planned procedures; writing discharge instructions; and entering orders and requesting consultations. The whistleblower voiced no concerns about this practice until (b) (6) 2012, when she alleged that the podiatry nurse had entered and released orders without her approval, that she had not instructed the podiatry nurse to enter orders and consultation requests, and that she had asked her to stop both practices. The podiatry nurse stated she was originally trained to enter orders and consultations along with the other duties described above, and that at no time did the whistleblower

instruct her to stop entering orders. The *Podiatry RN Scope of Practice/Roles and Responsibilities* provides the authority for the podiatry nurse to enter orders and consultations as stated in MCM 118-21.

Even though MCM 118-21 authorizes the podiatry nurses to enter certain orders and consultations, OMI randomly selected and reviewed 445 of the 1232 orders entered by the podiatry nurse. OMI found documentation in the provider's notes indicating the item or service ordered by the podiatry nurse was part of the provider's plan of care for 392 of the reviewed orders. Most of the notes written by the podiatry nurse indicate that the whistleblower was present during the patient encounter, and that the items or services ordered reflected the content of the treatment plan. The notes entered by the podiatry nurse are detailed, describing the wound assessments, time outs for procedures, the procedure itself, and discharge instructions. There is no evidence that discharge instructions were documented by the whistleblower.

The whistleblower alleged that the podiatry nurse entered a computer code on the patient's medical record indicating the whistleblower's signature was on file, in effect, signing the whistleblower's name electronically. She also claimed that the podiatry nurse entered orders and instructions into patients' records using the whistleblower's electronic signature; however, she denies ever providing the podiatry nurse with her signature code. As described in the background section, orders entered by one clinician cannot be signed using another clinician's electronic signature code, because the signature is only accepted if it matches the initial CPRS access code. All orders reviewed by OMI were entered by the podiatry nurse and signed by her with an indication that the provider's request for the item or service was documented in the provider's note and signed as "ON CHART with written orders." None of the orders we reviewed contained the whistleblower's electronic signature; however, she was identified as the responsible provider.

The podiatry nurse stated that she entered discharge and follow-up instructions, as directed by the whistleblower. Of the notes we reviewed, none contained discharge instructions written by the whistleblower, only instructions written by the podiatry nurse, which would indicate that the whistleblower instructed her to enter this information.

The whistleblower alleges that in (b) (6) 2012, she instructed the podiatry nurse to stop writing orders. The podiatry nurse told OMI that she was never instructed by the whistleblower to stop writing orders.

The whistleblower said that she informed Clinic leadership, including Nursing Service, about the podiatry nurse's practice of entering orders, but that she was unaware of any corrective action taken to address her concern. Medical Center leadership was also aware of the whistleblower's concerns about the podiatry nurse and told OMI that it had responded to the whistleblower with possible solutions. However, the Medical Center was unable to provide documentation as to how and when these concerns were investigated and what, if any, actions had been taken to resolve them.

Allegation 2

Registered nurses in other departments may be engaging in similar conduct.

In interviews with PACT and specialty nurses, OMI learned they only entered orders per MCM 118-21, *Protocol Orders for Nurses in Ambulatory Care and Outpatient Clinics.* The PACT physicians interviewed stated they had no concerns about nurses' order and consultation request entries and were unaware of any nurses making inappropriate entries.

Allegation 3

Nurses are used to staff clinics when physicians are unavailable, raising concerns about the lack of physician oversight at the facility and physician staffing levels, which may be insufficient to meet the demands and needs of the patient population.

PACTs are responsible for arranging physician coverage to ensure continued clinic operations during absences of any individual PACT staff. VHA uses the term "surrogate" to indicate a covering provider. Such arrangements are available to all PACT staff to ensure that electronic alerts, such as the delivery of test results or secure messages from Veterans, are managed by the surrogate, in addition to providing face-to-face care.

The whistleblower provided the names of two physicians whose patients she claims were provided medical care by RNs during their absences:

Physician 1's clinic schedule was cancelled from (b) (6) 2013, through (b) (6) 2013, a time in which 221 patients were scheduled to be seen by this provider. The Clinic cancelled 186 of these appointments, rescheduling patients with other providers. The remaining 35 patients were seen by surrogate physicians on the day of their originally scheduled appointment. OMI reviewed the medical records of these Veterans and confirmed that for each one a physician had entered a progress note describing the care provided.

Pending a planned resignation, Physician 2's clinic schedule was cancelled from (b) (6) 2013, through (b) (6) 2013, during which 20 Veterans were to be seen by this provider. The Clinic cancelled all of these appointments and rescheduled them with another provider. OMI reviewed the medical records of these Veterans and again found that for each one a physician had entered a progress note describing the care provided.

Several nursing and physician staff members reported a standard practice of assigning surrogate providers to perform the duties of physicians unable to work due to planned or unplanned absences. OMI reviewed documentation furnished by Medical Center and Clinic leadership of staff physicians being assigned clinic coverage and surrogate duties during Physician 1 and Physician 2's period of absence. In the records reviewed, OMI

found no evidence that nurses provide medical care to Veterans without physician oversight.

OMI reviewed physician staffing at the clinic between (b) (6) 2011 and (b) (6) 2014. We found that staffing levels were adequate and that physician supply was continuously monitored by clinical leadership using the PACT Compass tool to ensure that it met the demands and needs of the patient population.[3]

Additional Allegation provided by the whistleblower

The whistleblower also alleged that the podiatry nurse engaged in unauthorized completion of Medicare Home Health Program forms. Medicare Home Health Program referrals require signature by a LIP, and all referral forms require the signature of a physician. OMI reviewed all Medicare Home Health Program forms initiated by the Podiatry Clinic between (b) (6) 2011 and (b) (6) 2013, and found that physicians had signed all of them.

Conclusions

- OMI did not substantiate the allegation that an RN in the Podiatry Clinic consistently engaged in conduct that is outside the scope of her practice in violation of VA rules. Although the *Podiatry RN Scope of Practice/Roles and Responsibilities* does not specifically identify which orders and consultations the nurse is allowed to enter, it does state that the nurse's responsibility includes placing "consults/orders according to *Outpatient Clinic Nursing Guidelines*," which in turn states that nurse generated consultations/orders are to be ordered in accordance with, MCM 118-21, *Protocol Orders for Nurses in Ambulatory Care and Outpatient Clinics*. The MCM authorizes outpatient RNs to enter protocol orders and consultations to manage care in an expeditious manner. Although there were no written protocols in place, verbal protocols had been established prior to opening the Podiatry Clinic. (Addresses allegation1)

- OMI did not substantiate that the podiatry nurse entered medical information or treated patients under the whistleblower's name without her permission. OMI reviewed documentation in the medical record that indicated items or services ordered by the podiatry nurse were included in the whistleblower's plan of care. (Addresses allegation 1)

- OMI did not substantiate that the podiatry nurse was using the whistleblower's or any other provider's electronic signature when signing orders. Some of the orders

[3] The PACT Compass tool extracts data from VHA databanks in order to compile relevant data pertaining to metrics that evaluate key dimensions of care in accordance with PACT principles. This tool provides VHA leadership and staff with decision-making information for panel management, population management, patient care, and access. Access to care is measured and reported so that PACT staff may monitor these metrics and, as appropriate, establish action plans for ensuring that supply meets demand.

entered electronically on behalf of the whistleblower were released with the authority that the signature was "ON CHART, with written orders." None of the RN's orders reviewed by OMI displayed the whistleblower's signature.
(Addresses allegation 1)

- Clinic leadership's actions to address the whistleblower's concerns with the podiatry nurse were not sufficiently documented.
(Addresses allegation 1)

- OMI did not substantiate that RNs in other departments engaged in conduct outside the scope of their authority.
(Addresses allegation 2)

- OMI did not substantiate either the allegation that nurses are used to provide care when physicians are unavailable, or that physician oversight at the facility and physician staffing levels are insufficient to meet the demands and needs of the patient population.
(Addresses allegation 3)

- OMI did not substantiate Medicare fraud related to Medicare Home Health Program referrals.
(Addresses additional allegation from interview)

Recommendations

The Medical Center should:

1. Review and revise *Podiatry RN Scope of Practice/Roles and Responsibilities* to ensure clear guidance is provided for specialty clinic nurses concerning entering orders and consultation requests. If any changes are made, provide training, monitor for compliance, and address non-compliance as indicated.

2. Ensure that new employee orientation for nurses and providers includes training about MCM 118-21, emphasizing order and consultation entry expectations for nurses. Ensure that established nurses and providers are aware of the guidelines and policies pertaining to order and consultation entry expectations. Compliance should be monitored and non-compliance addressed as indicated.

Summary Statement

OMI's investigation and review of findings did not identify violations or apparent violations of statutory laws, mandatory rules, or regulations.

Attachment
Documents and Resources Reviewed by the OMI

1. Competency folders for Specialty and PACT clinic nurses.
2. Email communications between the whistleblower and leadership.
3. Email communications concerning coverage for a physician who was unavailable due to illness.
4. Email communications concerning coverage for a physician who resigned.
5. Encounter Activity Reports for the Clinic for FY 2011, 2012, and 2013.
6. Invasive Procedures Audit Tool.
7. List of Veterans previously scheduled to be seen in clinics of the provider who was unavailable due to illness.
8. List of Veterans previously scheduled to be seen in clinics of the provider who resigned.
9. Medical Center Memorandum 11-55, *Communication of Patient Test Results/Values,* 2011.
10. Medical Center Memorandum 118-21, *Protocol Orders for Nurses In Ambulatory Care and Outpatient Clinics,* 2013.
11. Medical Center Memorandum 136-1, *Telephonic and Verbal Orders,* 2013.
12. Moderate Sedation Procedure Audit Tool.
13. PACT Coordinator Roles and Responsibilities.
14. Peer Review Audit Tool.
15. Podiatry RN Scope of Practice/Roles and Responsibilities.
16. Podiatry/Wound Care Clinic Nurse Competency List.
17. Report listing all orders entered by the podiatry nurse between (b) (6) 2011, and (b) (6) 2013.
18. RN Care Manager Roles and Responsibilities (PACT Nurses).

19. *Satellite and Community-Based Outpatient Clinic Nursing Clinical Guidelines*, 2013.

20. Scope of Podiatry Services.

21. Specialty Clinic Nursing Competencies.

22. Specialty Clinic Nursing Orientation templates, including competency lists and procedure protocols.

23. The Villages Outpatient Clinic Organizational Chart.

24. The Villages Outpatient Clinic Prosthetics Purchasing Agent and Item Manager Consult Guide.

25. VHA Handbook 1101.10, *Patient Aligned Care Team (PACT) Handbook*, 2014.