



DEPARTMENT OF VETERANS AFFAIRS
Washington DC 20420

May 5, 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-13-1868 (Supplemental)

Dear Ms. Lerner:

I am responding to your staff's recent inquiry to the VA's Office of Accountability Review (OAR) regarding Central Alabama Veterans Health Care System (CAVHCS) management's response to and monitoring of the copying and pasting practices of Dr. Raghu Sundaram, MD, from the time of initial discovery to his retirement in July 2014.

It is my understanding that another CAVHCS provider disclosed information to OSC that, among other things, Dr. Sundaram, a CAVHCS staff pulmonologist, was responsible for copying prior provider notes from patient medical records to reflect current readings, in violation of the Veterans Health Administration (VHA) Handbook and Medical Center policy, likely resulting in inaccurate patient health information. I also understand that in July 2013, VA's Office of the Medical Inspector (OMI) substantiated that allegation against Dr. Sundaram and made several recommendations, including (1) broadening the scope of review for evidence of copying and pasting activities, to include all consults performed by Dr. Sundaram in 2011 and 2012; (2) continue active oversight of Dr. Sundaram's clinical documentation for an extended period of time; and (3) take appropriate administrative action based on the findings.

In October 2014, OAR convened an Administrative Investigation Board (AIB) at CAVHCS to investigate, among other things, whether CAVHCS leadership exercised appropriate management and oversight regarding administrative action taken against Dr. Sundaram for cutting and pasting information into the medical records of Veteran patients. Following are the AIB's findings:

1. CAVHCS continued active oversight of Dr. Sundaram's clinical documentation as recommended by the July 2013 OMI report to the OSC.
2. In August 2013, CAVHCS discovered that Dr. Sundaram copied and pasted information into five (5) patient medical records. As a result, the CAVHCS Chief of Staff (CoS), Dr. Cliff Robinson, and the Associate Chief of Staff (ACOS) for Specialty Care, Dr. Gilmer Rodriguez, consulted with a Human Resources Management Service

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(HRMS) employee relations specialist about proposing the termination of Dr. Sundaram.

At that time, the HRMS employee relations specialist advised them that the five (5) instances of copying and pasting alone would not support a removal action.

3. On September 9, 2013, Dr. Rodriguez, submitted a Disciplinary Action Checklist to CAVHCS HRMS requesting a 30-day suspension for Dr. Sundaram's recent misconduct. Dr. Rodriguez noted in his request that Dr. Sundaram was previously counseled and placed on a focused professional practice evaluation (FPPE) for the same misconduct.

4. On the same day, the HRMS employee relations specialist responded to Dr. Rodriguez and requested additional supporting documentation.

5. Between September 9, 2013, and approximately November 15, 2013, the HRMS employee relations specialist and Dr. Rodriguez went back-and-forth with each other about whether Dr. Rodriguez provided HRMS the necessary documentation to support the requested suspension – i.e., HRMS said they did not have the requested documents and Dr. Rodriguez said he delivered them.

6. In the meantime, CAVHCS conducted the broadened review of the 2011 and 2012 consults performed by Dr. Sundaram that was recommended by OMI. The review by CAVHCS was completed in December 2013. Of the 3,614 charts reviewed, 1,241 charts had evidence of copying and pasting by Dr. Sundaram. At the same time, CAVHCS also continued active oversight of current consults being performed by Dr. Sundaram. CAVHCS reviewed approximately 84 charts between August 2013 and January 2014, but found no confirmed instances of copying and pasting.

7. On February 27, 2014, the HRMS employee relations specialist forwarded the 30-day suspension request from Dr. Rodriguez to a local regional counsel attorney for review because she had concerns with the severity of the requested penalty. More specifically, her "real issue with this is that discipline is meant to be corrective" not punitive and since Dr. Sundaram had no other instances of copying and pasting after the five (5) instances discovered in August 2013, she believed recent evidence showed the issue was "corrected." Notwithstanding, her evaluation and opinion did not take into account the 1,241 instances of cutting and pasting discovered from CAVHCS's broadened review because she was never made aware of them.

8. On March 25, 2014, the VISN 7 Chief Medical Officer (CMO) requested a status update from Dr. Robinson on whether administrative action had been taken against Dr. Sundaram for copying and pasting. Dr. Robinson replied that a request for disciplinary action was still being reviewed by regional counsel and no action had yet been taken. However, Dr. Robinson, for reasons not clearly understood, was also

under the mistaken impression that Dr. Rodriguez had made HRMS aware of the additional 1,241 instances of copying and pasting and told the VISN CMO, "In order to generate a higher proposed adverse action, Human Resources combined all the copy and paste findings. The ACOS Acute Care [Dr. Rodriguez] recommended termination but HR stated that the evidence using Douglas Factors and the Table of Penalty best supported a proposed suspension of 30 days."

9. On March 27, 2014, the regional counsel attorney, also without the benefit of knowing about the additional 1,241 instances of copying and pasting, concurred with the HRMS employee relations specialist's assessment that a 30-day suspension would likely not be sustained before a third party fact-finder and recommended CAVHCS only issue a reprimand.

10. On April 30, 2014, Dr. Rodriguez issued Dr. Sundaram a proposed reprimand that included only the five (5) instances of copying and pasting discovered in August 2013. Neither Dr. Rodriguez nor Dr. Robinson questioned why the additional 1,241 instances of copying and pasting were not included as a specification in the proposed reprimand.

11. On June 4, 2014, Dr. Robinson sustained the charge and specifications in the proposed action and issued Dr. Sundaram a reprimand for the five (5) instances of copying and pasting discovered in August 2013.

12. Dr. Sundaram voluntarily retired from the VA in July 2014.

13. Although Dr. Rodriguez and Dr. Robinson failed to appropriately follow-up to ensure HRMS and regional counsel had all the evidence necessary to properly evaluate Dr. Sundaram's misconduct, there was no evidence that their oversight or mishandling of this matter was intentional. And, while administrative action against both Dr. Robinson and Dr. Rodriguez may have been warranted as a result of their oversight and mishandling of this matter, neither one is currently employed by the VA. According to Dr. Robinson, Dr. Rodriguez resigned in July 2014 as a result of this controversy. Dr. Robinson, on the other hand, was terminated by the VA in December 2014 for unrelated misconduct.

14. Finally, there was no evidence that anyone above Dr. Robinson was aware that CAVHCS HRMS and regional counsel did not have the evidence of the 1,241 instances of copying and pasting from consults performed by Dr. Sundaram in 2011 or 2012. As a result, the AIB did not assign any culpability above Dr. Robinson for the oversight and mishandling of this matter.

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I am hopeful that this information sufficiently answers any questions you may have regarding the administrative action taken against Dr. Sundaram for copying and pasting information in patient medical records that was initially disclosed to your office. However, if you have any additional questions, please feel free to contact my office.

Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael V. Culpepper". The signature is written in a cursive style with some loops and flourishes.

Michael V. Culpepper
Deputy Director
Office of Accountability Review