



DEPARTMENT OF VETERANS AFFAIRS
Under Secretary for Health
Washington DC 20420

August 19, 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-14-3495/3503

Dear Ms. Lerner:

I am responding to your request for supplemental information on the Martinsburg Department of Veterans Affairs (VA) Medical Center Martinsburg, West Virginia related to VA's report to the Office of Special Counsel dated January 6, 2015. 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).

In our original report, we made a total of 13 recommendations, 10 to the Medical Center, one to the Veterans Integrated Service Network (VISN) 5, and two to the Veterans Health Administration. A status update on each of these recommendations may be found in the enclosed supplemental report.

If you have any other questions, I would be pleased to address them.

Sincerely,

A handwritten signature in black ink that reads "David J. Shulkin, M.D." with a stylized flourish at the end.

David J. Shulkin, M.D.

Enclosure

**Department of Veterans Affairs
Supplemental Report
to the
Office of Special Counsel
Fort Detrick
Community-Based Outpatient Clinic, Frederick, Maryland,
Martinsburg Department of Veterans Affairs (VA) Medical Center
Martinsburg, West Virginia
OSC File Nos. DI-14-33495/DI-14-3503**

July 7, 2015
TRIM 2015-D-5118

Background

At the direction of the Secretary of VA, the Interim Under Secretary for Health (I/USH) requested that the Office of the Medical Inspector (OMI) assemble and lead a team to investigate complaints lodged with the Office of Special Counsel (OSC) by Whistleblower 1 MD (hereafter, whistleblower 1), and Whistleblower 2 (hereafter, whistleblower 2), at the Fort Detrick Community-Based Outpatient Clinic (CBOC), Frederick, Maryland, whose parent facility is the Martinsburg VA Medical Center (hereafter, the Medical Center), Martinsburg, West Virginia. The whistleblowers alleged that the Medical Center and the CBOC engaged in conduct that may constitute a violation of law, rule or regulation, gross mismanagement, and a substantial and specific danger to public health. The VA team conducted a site visit to the Medical Center and CBOC on September 30–October 2, 2014.

Based on its findings, VA made a total of 13 recommendations, 10 to the Medical Center, one to the Veterans Integrated Service Network (VISN) 5, and two to the Veterans Health Administration (VHA), all endorsed by the I/USH. VA then reviewed and concurred with the Medical Center's, the VISN's and VHA's action plans in response to the report recommendations. In the following paragraphs we report on the current status of each of the 13 recommendations.

Recommendations to the Medical Center:

Recommendation 1: The Medical Center should develop a contingency plan to ensure adequate coverage during staff absences at the CBOC.

Status: Currently, when a provider is scheduled to be absent, his or her appointment slots are blocked to prevent scheduling of patients during that time. The provider is responsible for ensuring that patients already scheduled are seen prior to the date of their scheduled appointments, unless the patient chooses to reschedule for a clinically appropriate later date. For an extended provider absence or vacancy, the clinic is covered by a fee-for-service, or a contracted *locum tenens*, provider. The Medical

Center has allocated and filled a position for a float primary care provider whose responsibilities include providing coverage for scheduled and unscheduled leave. The current provider staffing is in compliance with VHA Handbook 1101.10; the additional float provider will help ensure coverage remains adequate during staff absences.

Nursing staff from the other two Patient Aligned Care Teams (PACT) cover the absences of nurses by assisting with patient triage for the provider and other direct care duties. The current registered nurse (RN) staffing is in compliance with VHA Handbook 1101.10. Nursing Service plans to recruit an intermittent RN to provide coverage for vacancies and leave at the CBOC and one other clinic. The addition of this intermittent RN will help ensure coverage remains adequate during staff absences.

Laboratory health technicians assist with front desk duties (e.g., checking patients in for their appointment, checking patients out and scheduling follow up appointments, etc) during administrative staff absences. While the health technician is on the front desk, a licensed practical nurse (LPN) performs laboratory duties. The Medical Center has allocated and filled the position of a lead health technician, who will provide additional coverage for vacancies and absences, as well as train and support administrative staff at the CBOC. The Medical Center also allocated and filled a position of a float technician to provide additional coverage for vacancies and staff absences at the CBOC and three other CBOCs. A vacant health technician position has also been filled. The current staffing is in compliance with VHA Handbook 1101.10, providing adequate staff coverage to perform laboratory duties and front desk duties.

Primary Care Leadership continues to monitor staffing needs and ensure that the contingency plan for coverage is being utilized and that staff are updated as newly hired staffs come on board.

Action: COMPLETED: January 29, 2015.

Recommendation 2: Document PACT staffing correctly in the PCMM. Take corrective action addressing the deficiencies identified in the PCMM audit conducted in June 2014.

Status: All PACT team staffing was reviewed, and FTEEs were appropriately assigned to each team. Staff position titles were changed to reflect the correct titles as noted in the Primary Care Management Module (PCMM) audit. Additional staff has been allocated for the PACT team, with active recruitment in progress. The Medical Center will conduct monthly reviews to assess for any future deficiencies, and address as indicated.

Primary Care Leadership completed the review of all entries to PCMM last January 29, 2015. Continued monthly reviews of the PCMM are done as stated.

Action: COMPLETED: January 29, 2015.

Recommendation 3: Make sure specialty clinics have adequate administrative and clinical support that is not provided by PACT staff. Evaluate staffing needs and continue to fill vacancies as indicated.

Status: The specialty clinics are not staffed by primary care staff. Any needed coverage of these clinics will be provided by the associated service (e.g., Podiatry, Orthopedics, and Optometry report to Surgical Service, and this service would provide coverage for these clinics). In the absence of the clerical staff for the specialty clinic(s), an LPN in the clinic provides administrative support, if no other support is provided from the parent service.

CBOC Coordinator has acquired health technician support for all clinic specialties, including Dermatology, Podiatry, and Orthopedics and all are currently performing these duties effectively. All staffing needs of both Primary Care/CBOCs and specialty clinics are being addressed by leadership. Staffing needs are continuously evaluated, and vacancies are being filled as indicated.

Action: COMPLETED: April 21, 2015.

Recommendation 4: Provide retraining about order verification to PACT clerical staff. Monitor for compliance and address noncompliance as indicated.

Status: The Medical Center had provided training about order verification to all PACT staff last February 19, 2015. The CBOC will monitor for compliance on a quarterly basis, and address noncompliance with educational, administrative or disciplinary actions. Quarterly compliance is being monitored by the CBOC Coordinator.

Action: COMPLETED: February 19, 2015.

Recommendation 5: Conduct an audit of unverified orders for the CBOC for the previous 3 months, and determine if any patient harm occurred as a result of unverified orders. If patient harm occurred, make sure the Veteran is receiving care, and is informed of any adverse event if required by VHA Handbook 1004.8, *Disclosure of Adverse Events to Patients*.

Status: The Medical Center reviewed 1140 orders entered from November 2014 through January 2015; no unverified orders were found.

Action: COMPLETED: January 2015.

Recommendation 6: Develop and implement a process for following up on incident reports that do not warrant an RCA. As the CBOC person charged with reviewing and addressing each incident as indicated, the Nurse Manager must have access to these reports.

Status: On January 26, 2015, the Medical Center ensured that all CBOC Business Managers and Nurse Mangers had access to the Electronic Incident Report manager key, giving them access to these reports. The Medical Center then implemented a process that includes email notification of unit/department managers of any incident reports that do not require a root cause analysis; this process was implemented on March 1, 2015. The managers follow up by reviewing the reports, providing training as needed and sharing relevant findings with staff to prevent reoccurrences.

Action: COMPLETED: March 1, 2015.

Recommendation 7: Rectify the problems with the telephone system to make it more user friendly.

Status: The first phase of the new automatic call distribution (ACD) system was completed as scheduled on August 3, 2015.

Action: COMPLETED: August 3, 2015.

Recommendation 10: Review 3 months of EHRs entered by the PACT provider named by the Veteran interviewed for any evidence of false data. If false data are found, take the appropriate disciplinary and oversight actions.

Status: The Medical Center reviewed 374 notes entered by the PACT provider over a 3-month period (November 2014 through January 2015), and found no evidence of false data.

Action: COMPLETED: January 2015.

Recommendation 11: Review 3 months of EHRs entered by the other CBOC PACT providers for evidence of false data. If false data are found, take the appropriate disciplinary and oversight actions.

Status: The Medical Center reviewed 768 notes entered by the other CBOC PACT providers over a 3-month period of time (November 2014 through January 2015), and found no evidence of false data.

Action: COMPLETED: January 2015.

Recommendation 12: Provide additional training to providers on VHA Handbook 1907.01, *Health Information Management and Health Records*, July 22, 2014, regarding the requirement for accurate documentation.

Status: The Medical Center provided additional training to providers regarding the requirement for accurate documentation. Providers received in-service training in their quarterly medical staff meeting on September 15, 2014, by a memorandum from the

Medical Center Director regarding accurate documentation on October 14, 2014, and by monthly emailed educational links to professional journal articles on documentation.

Action: COMPLETED: October 14, 2014.

Recommendation for VISN 5:

Recommendation 8: VISN 5 should conduct an organizational assessment to identify the basis for communication breakdowns between the Medical Center, the CBOC and Human Resources (HR) around staffing issues impacting the CBOC's PACTs, laboratory, primary care, and specialty care clinics. This assessment should determine the root cause of the breakdowns and establish a communication improvement plan to address the following: coverage for military leave, vacancies, and staffing needs to meet the demand for increased services.

Status: The root cause of the issue was identified to be the delay or lapse in communication between the Martinsburg HR office and the CBOCs. As a result, Martinsburg HR, in consultation with VISN 5 HR, identified the desired communication flow to address the areas where communication lapses occur. The Medical Center's communication improvement plan included assessing PACT staffing for adequacy, clarifying the recruitment process to include the resources board approval process, identifying the HR specialist responsible for PACT team recruitment, and provision of updated information about recruitment efforts, clarifying PACT staff supervisory assignments, and a staff coverage plan for short-term (less than 30 days) and long-term (greater than 30 days) absences.

Action: COMPLETED: February 27, 2015.

Recommendations to VHA:

Recommendation 9: Assess the need for tracking of Safety Assessment Code (1) incidents. If a need exists to track these, ensure they are tracked in a uniform manner across the system.

Status: The VA National Center for Patient Safety tracks Safety Assessment Code (SAC) scores for all events. The need to track the SAC 1 incidents has been assessed and tracking implemented. The Office of Quality, Safety and Value routinely reviews the trends in incident reporting from all facilities, and is responsible for identifying and addressing trends in incidents at all SAC levels.

Action: COMPLETED: December 9, 2014.

Recommendation 13: Consider exploring if copy-and-paste detection software is available; if this software is available for use, consider using this tool to conduct a national assessment of the appropriate use of copy-and-paste.

Status: VHA has explored the use of copy-and-paste software detection, but the currently available software is not conducive for a national assessment.

Action: COMPLETED: February 20, 2015.

The Office of Accountability Review completed an investigation and is not recommending any disciplinary action for senior leaders.