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-16-1111

Dear Ms. Lerner:

I am responding to your May 31, 2016, letter regarding allegations made by a whistleblower that employees at the Department of Veterans Affairs (VA) Montana Health Care System, Billings Community Based Outpatient Clinic, in Billings, Montana, (hereafter, the Medical Center) may have engaged in conduct that constitutes a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; and a substantial and specific danger to public health. 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 Under Secretary for Health directed the Office of the Medical Inspector to assemble and lead a VA team to conduct an investigation. The report substantiates two of the whistleblower's three allegations and makes nine recommendations to the Medical Center, one to Veterans Integrated Service Network (VISN) 19, one to the Veterans Health Administration (VHA), and one to the Department. The team found violations of VA and VHA policy and notes that a substantial and specific danger to public health and safety exists at the Medical Center. Recommendation 6 to the Medical Center and Recommendation 1 to the VISN will assist with determining gross mismanagement or waste of funds.

Thank you for the opportunity to respond.

Sincerely,

Robert D. Snyder  
Chief of Staff

Enclosure
Executive Summary

The Under Secretary for Health (USH) for the Department of Veterans Affairs (VA) requested that the Office of the Medical Inspector (OMI) assemble and lead a VA team to investigate allegations lodged with the Office of Special Counsel (OSC) concerning the Billings VA Community Based Outpatient Clinic (hereafter, the CBOC), Billings Montana, part of the VA Montana Health Care System (hereafter, the Medical Center). DDS, the whistleblower and a staff dentist in the dental clinic at the ..., disclosed that the Employee 1 directs subordinate employees to engage in practices that violate VA directives and risk Veteran patients’ health. The whistleblower further alleged that employees may have engaged in conduct that constitutes a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; and a substantial and specific danger to public health. The VA team conducted a site visit to the CBOC on June 28–30, 2016.

Allegations of the Whistleblower

- Employee 1 requires Billings VA dentists to use a paper form to refer Veteran patients to non-VA dental providers in violation of Veterans Health Administration (VHA) Directives 2008-056 and 2010-027, VHA Handbook 1907.01, and 44 U.S.C. §3102(1);

- Billings VA Dental Services’ failure to enter consults into the VA Computerized Patient Record System (CPRS) violates VHA Directives 2008-056 and 2010-27, VHA Handbook 1907.01, 44 U.S.C. §3102(1) and adversely impacts patient care.

- Denying non-VA dental consultations requires patients to travel great distances to a VA facility wasting government funds in mileage and per diem.

VA substantiated allegations when the facts and findings supported that the alleged events or actions took place and did not substantiate allegations when the facts and findings showed the allegations were unfounded. VA was not able to substantiate allegations when the available evidence was not sufficient to support conclusions with reasonable certainty about whether the alleged event or action took place.

After careful review of findings, VA makes the following conclusions and recommendations.

Conclusions for Allegation 1

- VA substantiates the allegation that Employee 1 required Billings VA dentists to use a paper form to refer Veteran patients to non-VA dental providers in violation of VHA Directives 2008-056 and 2010-027, VHA Handbook 1907.01, established pursuant to 44 U.S.C. §3102(1).
• VA substantiates that the failure to use CPRS violates VHA and Medical Center policy that “The CPRS consultation package must be used for all clinical consultations.”

• The Employee 1 is the only dentist capable of entering non-VA dental care consultation requests into CPRS at the Medical Center. The other dentists lack the access to do this.

• Given his inability to enter electronic consultations for non-VA dental care, the CBOC dentist uses an unofficial and unapproved paper consultation form to convey requests for this care.

• Approved consultation requests are sporadically entered into CPRS, often several days after the patient sought or received care.

• These actions constituted a violation of VHA Directives 2008-056 and 2010-027, VHA Handbook 1907.01, established pursuant to 44 U.S.C. §3102(1), and pose a substantial and specific danger to public health and safety.

• We could find no evidence that anyone in leadership took action to respond to the February 2016 Administrative Investigation Board (AIB) Findings.

Recommendations to the Medical Center

1. Immediately stop the practice of using the unapproved paper consultation forms to submit requests for non-VA dental care in the community.

2. Ensure that all referrals for non-VA dental care are entered into CPRS per policy.

3. Provide the appropriate CPRS access to all dentists at the Medical Center and the CBOC so that they may enter electronic non-VA dental care and other consultations, as appropriate.

4. Provide education to all dental providers about the non-VA dental care consultation requirements and monitor consultation trends.

5. Determine the accountability of the Employee 1, and take appropriate educational, administrative, or disciplinary action.

6. Conduct an audit of all consultations sent from the CBOC for non-VA dental care from January 1, 2014, to June 30, 2016, to determine whether there was a delay in care or patient harm. In the cases where there is evidence of a delay or harm, conduct a clinical peer review of the care provided and provide Clinical and/or Institutional Disclosure, if appropriate, in accordance with VHA Handbook 1004.08, Disclosure of Adverse Events to Patients.
Recommendation to VHA

1. The Office of Dentistry should complete a comprehensive, consultative site visit to the Medical Center and CBOC to evaluate the dental services offered by those sites.

Recommendation to VA

1. The Office of Accountability Review (OAR) should determine the accountability of the [Employee 2] and take appropriate educational, administrative, or disciplinary action.

Conclusions for Allegation 2

- VA substantiates that the Billings VA Dental Services’ failure to enter consultations into CPRS violates VHA Directives 2008-056 and 2010-027, VHA Handbook 1907.01, established pursuant to 44 U.S.C. §3102(1).

- There are delays between the faxing of the paper consultation forms to the Medical Center and the entry of the consultation into CPRS. This delay was identified as impacting the care of many Veterans, some of whom required biopsies of oral lesions or had consultations placed for other urgent care needs, including severe pain. This practice adversely impacts patient care and poses a substantial and specific danger to public health and safety.

- The consistent delay in entering non-VA dental care consultations into CPRS negatively impacted patient care, kept some patients in pain longer than necessary, and may have contributed to poor outcomes.

- There were consistent payments for community-care dental procedures above the 50th percentile of the VHA Community Care Reference Fee Schedules rates for the Medical Center.

Recommendation to VISN 19

1. Conduct an AIB to review the payments for dental procedures completed in the community that are above the 50th percentile of the VHA Community Care Reference Fee Schedules rates.
Conclusion for Allegation 3

- **VA substantiates** that the [Employee 1], improperly denied non-VA dental care consultations, thereby requiring patients to travel great distances to a VA facility.

**Recommendations to the Medical Center**

7. Ensure that the [Employee 1] receives education about appropriate authorization and denial procedures for non-VA dental care.

8. Provide education to all dental providers about the non-VA dental care consultation requirements and monitor consultation trends.

9. Determine the accountability of the [Employee 1], and take appropriate educational, administrative, or disciplinary action.

**Summary Statement**

OMI has developed this report in consultation with other VHA and VA offices to address OSC's concerns that the Medical Center may have engaged in practices that violate VA directives and risk Veteran patients' health, and that employees may have engaged in conduct that constitutes a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; and specific danger to public health and safety. In particular, OGC has provided a legal review, VHA Human Resources has examined personnel issues to establish accountability, and OAR has reviewed the report and has or will address potential senior leadership accountability. VA found violations of VA and VHA policy, and notes that a substantial and specific danger to public health and safety exists at the Medical Center. Further investigation is needed to determine gross mismanagement or waste of funds.
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I. Introduction

The Under Secretary for Health (USH) at the Department of Veterans Affairs (VA) directed the Office of the Medical Inspector (OMI) to assemble and lead a VA team to investigate allegations lodged with the Office of Special Counsel (OSC) concerning the Billings VA Community Based Outpatient Clinic (hereafter, the CBOC), Billings Montana, part of the VA Montana Health Care System (hereafter, the Medical Center). DDS, the whistleblower, and a staff dentist in the dental clinic at the CBOC disclosed that the Employee 1, directs subordinate employees to engage in practices that violate VA directives and risk Veteran patients’ health, and that employees may have engaged in conduct that constitutes a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; and a substantial and specific danger to public health. The VA team conducted a site visit to the CBOC on June 28–30, 2016.

II. Facility Profile

The VA Montana Health Care System, part of Veterans Integrated Service Network (VISN) 19, is a complexity level 2 facility serving Veterans across Montana. VA Montana Health Care System serves over 47,000 enrolled Veterans spread across 16 locations and 17 facilities including: a hospital on Fort Harrison, a Health Care Center, 12 community-based outpatient clinics, a Primary Care Tele-health Outreach Clinic, a 30-bed Community Living Center, and a Sleep Disorders Center.

Fort Harrison (Helena) is a 34-bed acute care, medical-surgical facility that offers a broad range of acute, chronic, and specialized inpatient and outpatient services, including internal medicine, gerontology, neurology, dermatology, cardiology, palliative care, pain management, medical oncology, surgery (general, vascular, laparoscopic, endoscopic, plastic), urology, orthopedics, ophthalmology, otolaryngology (ENT), podiatry, gynecology, chiropractic care, ambulatory care, and psychiatry (including outpatient substance abuse treatment, posttraumatic stress disorder (PTSD) and military sexual trauma), and an additional 24-bed inpatient mental health facility that provides treatment for PTSD and Substance Abuse.

Primary care is provided at Anaconda, Billings, Bozeman, Cutbank, Glasgow, Glendive, Great Falls, Havre, Kalispell, Lewistown, Miles City, and Missoula.

The CBOC in Billings, Montana has two divisions, Spring Creek and Majestic, immediately adjacent to each other, with a total of 46 departments. It has seven Patient Aligned Care Teams (PACT) for the delivery of primary care and offers additional services including anticoagulation, pharmacy, radiology, compensation and pension, sleep disorder, outpatient surgery, endoscopy, pain management, podiatry, urology, gynecology, orthopedics, urology, cardiology, physical and occupational therapy, audiology, ophthalmology, behavioral health, dental, and others. In 2015, the CBOC had over 11,000 enrolled patients, and the population has been growing at a rate above 9 percent annually over the last 15 years.
Dental services are offered at the Medical Center and the CBOC. Two full-time dentists are assigned to the Medical Center and one to the CBOC, which opened in 2014. The CBOC offers basic dental care such as fillings, extractions, crowns, and cleanings. There were 1,618 dental appointments at the CBOC in fiscal year (FY) 2015. The CBOC dentist is supported by two dental assistants (DA), one dental hygienist, and one medical support assistant (MSA) who schedules appointments.

III. Allegations of the Whistleblower

- Employee 1 requires Billings VA dentists to use a paper form to refer Veteran patients to non-VA dental providers in violation of VHA Directives 2008-056, and 2010-027, VHA Handbook 1907.01, and 44 U.S.C. §3102(1).

- Billings VA Dental Services’ failure to enter consultations into the VA Computerized Patient Record System (CPRS) violates VHA Directives 2008-056 and 2010-27, VHA Handbook 1907.01, 44 U.S.C. §3102(1) and adversely impacts patient care.

- Denying non-VA dental consultations requires patients to travel great distances to a VA facility wasting government funds in mileage and per diem.

IV. Conduct of Investigation

The VA team conducting the investigation consisted of M.D., Senior Medical Investigator and RN, Clinical Program Manager, both of OMI; DDS, Associate Director, Dental Informatics and Analytics, VHA Office of Dentistry, and Employee Relations Human Resources (HR) Specialist, Office of Accountability Review (OAR). VA reviewed relevant policies, procedures, professional standards, reports, memorandums, and other documents listed in Attachment A. We conducted a tour of the Dental Clinic and held entrance and exit briefings with Medical Center and VISN leadership.

We interviewed the whistleblower via teleconference on June 10, 2016, and in person on June 28, 2016. We also interviewed the Medical Center employees listed below.

The following employees participated in the Entrance Briefing:

- Interim Medical Center Director
- Acting Associate Director (AD)
- M.D., Acting Chief of Staff (CoS)
- Associate Director for Patient Care Services (ADPCPS)
- – Executive Assistant (EA) to the Medical Center Director
- EA to the Sheridan VA Medical Center Director

We interviewed the following Medical Center and VISN 19 Employees:
The following employees participated in the Exit Briefing:

- VISN-19 Quality Manager Officer
- Interim Medical Center Director
- Interim Medical Center Director (outgoing)
- Acting AD
- M.D., Acting CoS
- ADPCs
- EA to the Sheridan VA Medical Center Director

V. Findings, Conclusions, and Recommendations

Allegation 1

Employee 1 requires Billings VA dentists to use a paper form to refer Veteran patients to non-VA dental providers in violation of VHA Directives 2008-056, 2010-027, and VHA Handbook 1907.01, and 44 U.S.C. §3102(1).
The whistleblower specifically alleged:

- Employee 1 instructs the Billings CBOC Dental Services Staff to use a paper referral form instead of CPRS to refer patient for non-VA consultations.
- Non-VA consultation requests that are "denied" are not entered into CPRS, and once a consultation request is denied, there is no VA record of the Veteran's request for care.
- Approved consultation requests are sporadically entered into CPRS, often several days after the patient sought or received care.
- The failure to use CPRS violates VHA directives and the Medical Center's policy that "The CPRS consultation package must be used for all clinical Consultations."

Findings

Non-VA Dental Care Consultations


> It is VHA policy that all outpatient clinic appointments, meeting the definition of an encounter, are made in Count Clinics using the VistA Scheduling software in a fashion that best suits patients' clinical needs and preferences; this includes, but is not limited to: appointments made for clinic visits; VA provided home care; consultations; and medical, surgical, dental, rehabilitation, dietetic, nursing, social work, and mental health services and procedures.


> It is VHA policy that all requests for clinical consultation be clinically completed with results consistent with VHA timeliness standards and resolved efficiently taking into account individual health care needs.

VHA Directive 2008-056 further states:

> The CPRS consult functionality is the mechanism used to initiate, manage, and communicate clinical consultations. Clinical consultations that can be resolved without a face-to-face encounter need to be answered electronically and the consult completed without scheduling an appointment. All other clinical consultations must be acted on by scheduling an appointment within VA's established timeframe or documenting the reason why an appointment is not scheduled within the timeframe. Facility staff must ensure outpatient
appointments created in response to CPRS intra-facility and inter-facility consult requests are effectively linked in VistA to the specific CPRS consult request.

VHA Handbook 1907.01, Health Information Management and Health Records, March 19, 2015, stated:

Under Title 44 United States Code (U.S.C.) 3102(1), VHA, by statute, must maintain complete, accurate, timely, clinically-pertinent, and readily-accessible patient health records, which contain sufficient recorded information to serve as a basis to plan patient care, support diagnoses, warrant treatment, measure outcomes, support education, research, and facilitate performance improvement processes and legal requirements.

Furthermore, VHA Handbook 1907.01 also states that VA employees are also accountable for safeguarding patient confidentiality and privacy, which is one of the safeguards in place to restrict access to and handling of patient health records.

The Acting CoS, appointed to this position in August 2015, initially learned of the use of paper consultation forms for non-VA dental care in December 2015. During our interview with him, he told us that when he first learned about this, he thought all dentists were electronically entering non-VA dental care consultations themselves, but after exploring this issue in December 2015, he found that they were using paper consultation forms instead. He instructed the employees to stop the practice but admitted that he did not make sure that the referral process changed. Realizing that there continued to be issues within the Dental Service, the Acting CoS requested an Administrative Investigation Board (AIB) to investigate this and other Dental Services administrative issues.

During the week of February 22–26, 2016, an AIB conducted an investigation at the Medical Center and CBOC into allegations concerning dental services and identified several issues related to inappropriate mechanisms for requesting non-VA consultations:

- Non-VA dental care consultations were initiated through completion of a paper form titled Referral for Special Dental Care (Appendix B).
- Paper consultation forms were faxed to an administrative employee at the Medical Center.
- Following review by the approved non-VA dental care consultations were forwarded to dentists in the community; however, these consultations were not always entered into CPRS.
- Paper consultation forms were stored in the office of the administrative employee until the non-VA provider indicated services had been provided.
- The original consultation forms were maintained on file in binders at the CBOC Dental Clinic.
• Some of the non-VA dental care consultations were entered into CPRS after the non-VA dental providers had submitted their bills and received reimbursement from the Medical Center.

• In December 2015, two binders containing paper consultation forms and records were removed from the CBOC Dental Clinic and presented to the Privacy Officer, who informed the VA team that the documents have been appropriately destroyed.

• There was no apparent mechanism for tracking pending or completed non-VA dental care consultations.

Based on these findings, the AIB concluded that “an inappropriate and unauthorized process for non-VA dental care existed; resulting in possibly delayed or lost care to Veterans.” This VA team has similar concerns as the decision not to use CPRS to enter and manage non-VA dental care consultations contributed to delays in care. The AIB reported its findings immediately to the Acting CoS and the ADPCS, who was the Acting Medical Center Director at that time; however, the official written report of the AIB was not signed until May 12, 2016.

We asked the Acting CoS what follow up and corrective actions he had taken after the AIB team substantiated the paper consultations and the possibility that payment for unauthorized non-VA dental care had been rendered. He reported that in February 2016, he told the Employee 1 to stop the use of paper consultation forms immediately, that all consultations must be submitted electronically through CPRS per policy, and that appointments should not occur until authorized. He repeated this instruction in April but was unable to provide any written documentation of corrective actions taken.

The Acting CoS told us that following the AIB, he was told by the Employee 1 that all dentists had begun to enter their own non-VA dental care consultations into CPRS, and that they were no longer using paper consultation forms. After investigating this issue further, he found that, despite his previous instructions to the Employee 1, the CBOC and Medical Center dentists were still using the paper consultation forms.

We interviewed the dentists at the CBOC and the Medical Center. All three reported that they were unable to enter consultations into CPRS because they lacked the appropriate menu this task requires. They each described the process that they were trained to use by the Employee 1, which was to complete a paper non-VA dental care consultation form and submit it via fax to a DA at the Medical Center. We asked the CBOC dentist to provide a copy of the paper non-VA consultation form and evidence of its continued use. The CBOC dentist gave us copies of 45 forms, the most recent of which had been initiated within a week of our site visit. One dentist at the Medical Center reported that he continued to use the paper forms as well, but that he and the Employee 1 always discussed non-VA dental care consultations before he completed the form; therefore, he only completed forms for Veterans he knew would be approved for non-VA dental care.
In our attempt to understand why CBOC and Medical Center dentists were not entering consultations in CPRS, we asked the CBOC dentist to demonstrate his dental consultation menu in CPRS (Attachment C). We found that the options available to him were not appropriate for his consultations: he was indeed unable to enter electronic requests for non-VA dental care. A review of the CPRS consultation menu for the Medical Center and CBOC revealed that none of the staff dentists had access to the Non-VA Care Dental General Services or Non-VA Care Dental Specialty Services consultation options, and that the was the only dentist employed by the Medical Center who had been given the appropriate menu in CPRS to enter these consultations.

Our team inquired further about what actions, if any, the CBOC dentist had taken to have the CPRS consultation issues resolved. He reported sending requests to the Clinical Applications Coordinator (CAC) who forwarded the request to the for approval; however told the CAC that the CBOC dentist did not need to have access to the non-VA dental care menu option within CPRS.

The has been in this role for the past 5 years; he explained that this paper consultation process had been devised years ago under a previous Chief as a courtesy to non-VA dentists: it provided a document to accompany consultation requests from VA. He reported that the CBOC dentist could enter the non-VA dental care information into CPRS, but that the CBOC dentist chose to use the paper consultation form. We asked the to explain the process for entering non-VA dental care consultations. He said that the CBOC dentist faxes a consultation form outlining the treatment he wants done to a DA in Dental Services at Fort Harrison. That DA presents the consultation request to who reviews it and gives it to his DA, one of three people to whom he has delegated authority to approve non-VA consultations. That DA transcribes the request into CPRS and then destroys the paper form.

The , his DA, and the CBOC dentist each reported that non-VA dental care consultations denied by the are not entered into CPRS. They also confirmed that after a consultation request is denied, there are no records of the Veteran’s request for care, since it is not in CPRS.

Privacy

To address the paper consultation forms maintained on file at both the CBOC and Medical Center, the Acting CoS spoke to the Compliance Officer who conducted an audit of a sample of the forms. Finding no irregularities within this sample regarding consultation, referral or completion, she reported her findings to her supervisor and was instructed to destroy the forms.
Conclusions for Allegation 1

- **VA substantiates** the allegation that **Employee 1** requires Billings VA dentists to use a paper form to refer Veteran patients to non-VA dental providers in violation of VHA Directives 2008-056 and 2010-027, VHA Handbook 1907.01, established pursuant to 44 U.S.C. §3102(1).

- **VA substantiates** that the failure to use CPRS violates VHA and Medical Center policy that "The CPRS consultation package must be used for all clinical consultations."

- The **Employee 1**, is the only dentist capable of entering non-VA dental care consultation requests into CPRS at the Medical Center. The other dentists lack the access to do this.

- Given his inability to enter electronic consultations for non-VA dental care, the CBOC dentist uses an unofficial and unapproved paper consultation form to convey requests for this care.

- Approved consultation requests are sporadically entered into CPRS, often several days after the patient sought or received care.

- These actions constitute a violation of VHA Directives 2008-056 and 2010-027, VHA Handbook 1907.01, established pursuant to 44 U.S.C. §3102(1), and pose a substantial and specific danger to public health and safety.

- We could find no evidence that anyone in leadership took action to respond to the February 2016 AIB Findings.

Recommendations to the Medical Center

1. Immediately stop the practice of using the unapproved paper consultation forms to submit requests for non-VA dental care in the community.

2. Ensure that all referrals for non-VA dental care are entered into CPRS per policy.

3. Provide the appropriate CPRS access to all dentists at the Medical Center and the CBOC so that they may enter electronic non-VA dental care and other consultations, as appropriate.

4. Provide education to all dental providers about the non-VA dental care consultation requirements and monitor consultation trends.

5. Determine the accountability of the **Employee 1** and take appropriate educational, administrative, or disciplinary action.
6. Conduct an audit of all consultations sent from the CBOC for non-VA dental care from January 1, 2014, to June 30, 2016, to determine whether there was a delay in care or patient harm. In the cases where there is evidence of a delay or harm, conduct a clinical peer review of the care provided and provide Clinical and/or Institutional Disclosure, if appropriate, in accordance with VHA Handbook 1004.08, *Disclosure of Adverse Events to Patients*.

**Recommendation to VHA**

1. The Office of Dentistry should complete a comprehensive, consultative site visit to the Medical Center and CBOC to evaluate dental services.

**Recommendation to VA**

1. OAR should determine the accountability of the [Employee 2] and take appropriate educational, administrative, or disciplinary action.

**Allegation 2**

*Billings VA Dental Services’ failure to enter consultations into CPRS violates VHA Directives 2008-056 and 2010-27, VHA Handbook 1907.01 and 44 U.S.C. §3102(1) and adversely impacts patient care.*

The whistleblower specifically alleged:

- Failure to use CPRS adversely affects patient care because there is no record of denied consultation requests and no documents in CPRS that track pending or completed dental care.
- The whistleblower submitted a paper non-VA dental care consultation form for biopsy of an oral lesion for a patient with parotid gland cancer and was not notified that the consultation had been approved, that the care had been completed, or that the oral lesion contained malignant tissue.

**Findings**

After the CBOC dental staff faxed the paper non-VA dental care consultation forms, the approved consultations were supposed to have been entered into CPRS and assigned to the [Employee 1]. Because of this practice, information pertaining to the care provided in the community was not returned to the original referring dentist. Both the Medical Center and CBOC dentists reported that they do not consistently receive follow-up information after the completion of dental consultations in the community. The CBOC dentist provided several instances of this in which the failure to keep him informed may have negatively impacted patient care. We reviewed several clinical cases and concur that this practice adversely impacts patient care.
Chart Reviews

We reviewed the 45 paper consultation forms titled “Referral for Specialty Dental Care” provided by the CBOC dentist as evidence of the ongoing practice of requesting such referrals using paper forms. The paper form includes instructions for the referring dentist to enter his or her treatment plan on the form and return it for pre-authorization to the Medical Center.

Our review of the 45 consultations revealed the following trends: a consistent pattern of delay between the time stamp of the faxed paper referral and the initiation of care in the community and eventual treatment; payments made consistently above the 50th percentile of the Medical Center’s posted VHA Community Care Reference Fee Schedules rates; and some of the consultations were for procedures that a general dentist should be able to complete.

After reviewing 45 consultations for non-VA dental care identified under Allegation 1, we found that, in most instances, the electronic request was entered days, and in some cases, weeks following the initial faxed consultation request. Most of these consultations were for oral surgery procedures, such as multiple tooth extractions or dental implants, and often contained details about moderate to severe discomfort. We noted a consistent pattern of patients presenting to the CBOC dental clinic with severe pain being sent to the community. Some Veteran patients were identified as having severe swelling or infection. There was an 11-week delay in one case from the time the non-VA dental care consultation was faxed until the request for a biopsy of a suspicious oral lesion was entered electronically into CPRS. We also found one example in CPRS where the Veteran was initially denied non-VA dental care, and then was approved for it about a week later. We could not determine the impact to care since treatment had already been provided.

Conclusions for Allegation 2

• VA substantiates that the Billings VA Dental Services’ failure to enter consultations into CPRS violates VHA Directives 2008-056 and 2010-027, VHA Handbook 1907.01, established pursuant to 44 U.S.C. §3102(1). The practice adversely impacts patient care and poses a substantial and specific danger to public health and safety.

• There are delays between the faxing of the paper consultation forms to the Medical Center and the entry of the consultation into CPRS. This delay was identified as impacting the care of many Veterans, some of whom required biopsies of oral lesions or had consultations placed for other urgent care needs, including severe pain. This adversely impacts patient care and poses a substantial and specific danger to public health and safety.
• The consistent delay in entering non-VA dental care consultations into CPRS negatively impacted patient care, kept some patients in pain longer than necessary, and may have contributed to poor outcomes.

• There were consistent payments for community-care dental procedures above the 50th percentile of the VHA Community Care Reference Fee Schedules rates for the Medical Center.

Recommendation to VISN 19

1. Conduct an AIB to review the payments for dental procedures completed in the community that are above the 50th percentile of the VHA Community Care Reference Fee Schedules rates.

Allegation 3

Denying non-VA dental consultations requires patients to travel great distances to a VA facility, wasting government funds in mileage and per diem.

Findings

The Non-VA Dental Program provides for certain types of pre-authorized treatment to be provided to eligible Veterans by non-VA providers when VA medical centers are not capable of providing care due to geographical inaccessibility or when the needed care is not available. Additionally, The Dental and Veterans Access, Choice, and Accountability Act (Choice) provides another authority to allow Veterans who are unable to schedule an appointment within 30 days of their preferred date or the clinically appropriate date, who live 40 miles or more from a VA facility, or who face unusual or excessive burden in obtaining care, to elect to receive care from eligible non-VA health care entities or providers. The Employee 1 admitted that when presented with a new consultation for approval for non-VA dental care, as a matter of routine, he denied non-VA dental care to patients who lived 200-300 miles away from the nearest VA facility in Montana. When asked why, he said he did so because care is available within VA, and that he believed that the funding source for such referrals to the community would be the traditional non-VA dental care program, which is funded by the Medical Center, and not the Choice Program, which is funded through separate appropriations.

Both the Acting CoS and the Employee 1, reported that they received instruction from Central Office that patients seeking routine dental services must first seek treatment at the Medical Center, one of the clinics, or at a facility within the VISN. They reported having been instructed to use non-VA dental care only if dental services were not available through one of these avenues or if the patient requires emergency care. Neither could provide any documentation supporting these instructions.

In general, Montana is rural, and the Veterans receiving care within the catchment area served by the CBOC live more than 40 miles away.
We asked the CBOC dentist for clarification regarding his concern “that paying per diem and travel allowances for Veterans traveling great distances to VA Medical Centers rather than receiving authorization for care in the community was a waste of government funds.” The rationale he gave is not in accordance with this policy, since paying per diem and travel reimbursement costs in accordance with Federal rules and regulations does not constitute a waste of Government funds. According to the VA Beneficiary Travel policy, Veteran patients are allowed to receive travel allowances to and from VA for treatment. The Beneficiary Travel program provides eligible Veterans and other beneficiaries mileage reimbursement for travel to and from VA health care, or VA authorized non-VA health care for which the Veteran is eligible. We have no concerns about the CBOC’s distribution of Government funding in mileage and per diem reimbursements since VA policy allows for reimbursement in such instances.

The [Employee 1], was unable to articulate or discuss current VHA policies and procedures related to dental care and the non-VA dental care consultation process. Neither he nor the other dentists could describe the proper non-VA dental care consultation process or the criteria for such referrals. They were unaware of specific dental guidance, such as that of the Deputy Under Secretary for Health for Operations Management’s Memorandum on the use of non-VA dental care fee basis, the maximum plan benefit schedules that reference the percentile payment rates, or the requirement that any fee rate above a certain percentile must be approved by the VISN Network Director via the Medical Center Director. Additionally, the [Employee 1], was unable to state the appropriate reasons behind several cases in which he denied non-VA dental care.

**Conclusion to Allegation 3**

- **VA substantiates** that the [Employee 1], improperly denied non-VA dental care consultations, thereby requiring patients to travel great distances to a VA facility.

**Recommendations to the Medical Center**

7. Ensure that the [Employee 1], receives education about appropriate authorization and denial procedures for non-VA dental care.

8. Provide education to all dental providers about the non-VA dental care consultation requirements and monitor consultation trends.

9. Determine the accountability of the [Employee 1], and take appropriate educational, administrative, or disciplinary action.

**VI. Summary Statement**

OMI has developed this report in consultation with other VHA and VA offices to address OSC’s concerns that the Medical Center may have engaged in practices that violate VA directives and risk Veteran patients’ health, and that employees may have engaged in
conduct that constitutes a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; and specific danger to public health and safety. In particular, OGC has provided a legal review, VHA HR has examined personnel issues to establish accountability, and OAR has reviewed the report and has or will address potential senior leadership accountability. VA found violations of VA and VHA policy and notes that a substantial and specific danger to public health and safety exists at the Medical Center. Further investigation is needed to determine gross mismanagement or waste of funds.
Attachment A

Documents reviewed in addition to the Medical Center Trip Pak.

44 U.S.C. §3102(1)

VHA Handbook 1907.01, Health Information Management and Health Records, March 19, 2015

VHA Handbook 1004.08, Disclosure of Adverse Events to Patients, October 2, 2012.


VHA Directive 2010-027, Outpatient Scheduling Processes and Procedures, June 8, 2010


VA Memorandum: Deputy Under Secretary for Health for Operations and Management, Use of Non-VA Care (Fee Basis) Dental Plan Benefit Schedules, December 8, 2011

Dental and Veterans Access, Choice and Accountability Act (Veterans Choice Program) Dental Reference Sheet, September 27, 2015

National Non-VA Care Program Office Dental Procedure Guide, National Non-VA Medical Care Program Office (NNPO) intranet site

Medical Center Policy # 12-17-11-02-15, Consult Management Policy, with SOP Attachments A-L, November 1, 2015

Medical Center Policy, Enhanced Access Standard Operating Procedure

Medical Center Policy, A Guide to Outpatient Consultation, Standard Operating Procedure, September 2014 (The use of the consultation package is mandatory for Outpatient Consultations.)

Dental Non-VA Care Maximum Plan Benefit Schedule for Fort Harrison VA Medical Center, 50th Percentile - GeoZip 596, January 2016 data.

Department of Veterans Affairs, Beneficiary Travel, http://www.va.gov/HEALTHBENEFITS/vtp/Beneficiary_Travel.asp

Medical Center Organizational Chart
Human Resource Documents

Patient Incident Report

Dental staff competency and education documents

Patient Advocate Tracking System records for Dental Services from January 1, 2014 – June 29, 2016

Numerous emails from whistleblower and Employee 3
REFERRAL FOR SPECIALTY DENTAL CARE

Dental Service (160)
3687 Veterans Dr
VA Montana Healthcare
Fort Harrison, MT 59636-1500
406-447-7358

__________________________________________
Is being referred to you by Dr. _____________________________
at VA Montana Healthcare, Fort Harrison, MT for the following reasons:

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

If you have any questions, you may contact the referring dentist at above phone number or address.

Please enter your treatment plan on the attached form and return it for preauthorization to:

    Dental Fee Basis
    VA Montana Healthcare
    210 South Winchester
    Miles City, MT 59301
    Attn: Darla Woods 406-874-5665
## Attachment C

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<th>Attention</th>
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<td>Non Va Care Compensation And Pension</td>
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<tr>
<td>Non Va Care Dermatology</td>
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<td>Non Va Care Dialysis (peritoneal)</td>
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**Reason for Request**

Patient will be seen as an:
- Inpatient
- Outpatient

Place of Consultation:
- CONSULTANT'S CHOICE

**Provisional Diagnosis**

[Lexicon]