



**U.S. OFFICE OF SPECIAL COUNSEL**

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**The Special Counsel**

March 28, 2019

The President  
The White House  
Washington, D.C. 20500

Re: OSC File Nos. DI-16-5834 and DI-17-0045

Dear Mr. President:

I am forwarding a report from the Department of Veterans Affairs (VA), based on disclosures of wrongdoing at the Edith Nourse Rogers Memorial Veterans Hospital (the Medical Center), Bedford, Massachusetts. The whistleblowers alleged that Medical Center Physical Therapy (PT) Department personnel have intentionally failed to enter appointments into agency computer systems, maintained concealed schedules for PT patient appointments, and improperly manipulated Clinically Indicated Dates (CID).

The investigation did not substantiate the allegations. Investigators found no evidence suggesting that PT personnel were instructed to intentionally avoid entering appointments into agency computer systems. With respect to purported concealed schedules, the investigation determined that due to scheduling software limitations, since 2014, the PT Department has appropriately and lawfully relied on the use of an Outlook calendar to manage provider workloads. This arrangement is in conformance with VA policy. As to allegations concerning improperly manipulated CIDs, no evidence was found suggesting that managers ordered this practice. However, the report noted that 2015 and 2016 audits of the PT Department suggested that CIDs were manipulated. Training was provided in late 2016. While compliance rates have improved, in Fiscal Years 2016 and 2017, the PT Department still failed to achieve rates above 80 percent.

I have reviewed the original disclosure, the agency report, and the whistleblowers' comments. Based on the investigation, it appears that the whistleblowers brought forward legitimate concerns relating to the administration of the PT Department. Evidence suggests that the Department has a chronic issue with CID entry, which the agency is now addressing. Given historic issues with CIDs, I urge the agency to remain vigilant to ensure proper compliance. Notwithstanding these concerns, the agency appears to have taken measures to ensure patients are receiving appropriate access to care.

For these reasons, I have determined that the report meets the statutory requirements and the findings appear reasonable. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency report, and the whistleblowers' comments to

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the Chairmen and Ranking Members of the Senate and House Committees on Veterans' Affairs. I have also filed redacted copies of these documents and the redacted referral letter in our public file, which is available at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,

A handwritten signature in blue ink, appearing to read "H. J. Kerner".

Henry J. Kerner  
*Special Counsel*

Enclosures