



Department of Veterans Affairs Office of Inspector General

Evaluation of Allegations Regarding the Anesthesiology Residency Program at the VA Greater Los Angeles Healthcare System

Improved monitoring will prevent residents from receiving dual compensation and working excessive hours in the Anesthesiology Residency Training Program.

Office of Inspector General

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DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington, DC 20420

TO: Acting Director, VA Greater Los Angeles Healthcare System (691/00)

SUBJECT: Evaluation of Allegations Regarding the Anesthesiology Residency Program at the VA Greater Los Angeles Healthcare System

Summary

The Office of Inspector General (OIG) evaluated the VA Greater Los Angeles Healthcare System's (healthcare system) anesthesiology residency program to assess the merit of an anonymous complaint regarding resident moonlighting activities. The anonymous complaint received by the OIG's Hotline Division alleged that: (1) residents participating in residency training programs are not allowed to engage in moonlighting for pay in their medical specialty and the healthcare system staff circumvented this prohibition by hiring University of California, Los Angeles (UCLA) anesthesiology residents as "airway experts," instead of anesthesiologists; (2) the healthcare system pays moonlighting UCLA anesthesiology residents an additional \$50 per hour to provide coverage during weekends and nights, even though the residents are already compensated for all duty hours at the healthcare system through the residency training program; and (3) several moonlighting UCLA anesthesiology residents work 36-hour shifts, even though this practice is prohibited in residency training programs.

We did not substantiate the allegation that healthcare system staff circumvented policies that prohibit anesthesiology residents from moonlighting in their medical specialty, because the residents were already trained, licensed, credentialed, and privileged to perform the procedures required by their moonlighting activities. However, we substantiated the allegations that UCLA anesthesiology residents received additional compensation from the healthcare system for duty hours already covered under the UCLA-VA Greater Los Angeles Healthcare System (VAGLAHCS) residency training program disbursement agreement and that residents worked excessive hours.

Healthcare system management paid the UCLA anesthesiology residents on a fee-basis under a moonlighting arrangement to provide emergency intubations and advanced cardio life support procedures on nights, weekends, and holidays. However, 2 of the 27 fee-basis episodes we reviewed were not appropriate because they were completed by 2 residents who were performing their training assignments at the healthcare system and were already compensated for 24-hour,

7-day a week coverage at the VA under the residency training program disbursement agreement. Our evaluation also identified 2 residents whose duty hours exceeded the Association of American Medical Colleges (AAMC)¹ and Accreditation Council for Graduate Medical Education's (ACGME) weekly duty hour standards and 10 moonlighting residents who worked consecutive-hour shifts that exceeded the ACGME prescribed maximum shift of 24 consecutive hours.

We recommend that the Acting Healthcare System Director ensure that: (a) the Department of Anesthesiology monitors moonlighting anesthesiology residents to ensure that they do not receive additional compensation for duty hours already covered under the residency training program disbursement agreement; (b) anesthesiology resident timesheets are current, accurate, complete, and approved by the resident's supervisor in accordance with Veterans Health Administration (VHA) policy; and (c) anesthesiology resident duty and moonlighting hours are coordinated with the affiliated university, documented, monitored, and evaluated on a daily basis to ensure compliance with ACGME standards.

Introduction

The healthcare system provides a broad range of tertiary inpatient care and outpatient healthcare services at its West Los Angeles and Sepulveda campuses. Outpatient care is provided at 3 Ambulatory Care Centers in West Los Angeles, Sepulveda, and Downtown Los Angeles and 10 community-based outpatient clinics located in Bakersfield, East Los Angeles, Gardena, Lancaster, Lompoc, Pasadena, Oxnard, San Luis Obispo, Santa Barbara, and Ventura. The healthcare system is part of the Veterans Integrated Service Network (VISN) 22, which is also known as the Desert Pacific Healthcare Network, and serves a veteran population of about 625,000 in a primary service area that covers 6 counties in California. The healthcare system is affiliated with the UCLA and University of Southern California Schools of Medicine and supports 315 medical resident positions in 16 training programs.

The UCLA-VAGLAHCS Internal Medicine Residency Training Program is one of the oldest internal medicine training programs in Los Angeles and provides training at the West Los Angeles and the Sepulveda VA Ambulatory Care Centers. This program is a member of the UCLA family of Internal Medicine Training Programs and has a close affiliation with the UCLA School of Medicine. Residents rotate from UCLA to the healthcare system and other affiliated hospitals during their training. The UCLA-VAGLAHCS Internal Medicine Residency Training Program is an ACGME-accredited medical residency program.

¹ The AAMC is a non-profit association of medical schools, teaching hospitals, and academic societies that was founded to work for reform in medical education.

An anonymous complaint received by the OIG's Hotline Division alleged that:

- Residents participating in residency training programs are not allowed to engage in moonlighting² for pay in their medical specialty and the healthcare system staff circumvented this prohibition by hiring UCLA anesthesiology residents as “airway experts,” instead of anesthesiologists.
- The healthcare system pays moonlighting UCLA anesthesiology residents an additional \$50 per hour to provide coverage during weekends and nights, even though the residents are already compensated for all duty hours at the healthcare system through the residency training program.
- Several moonlighting UCLA anesthesiology residents work 36-hour shifts, even though this practice is prohibited in residency training programs.

To assess the validity of these allegations, we reviewed affiliation disbursement agreements; credentialing and privileging files; employment applications; duty schedules; paid invoices; payroll and timekeeping records; applicable laws, policies, and procedures; and the AAMC and ACGME standards governing the training of residents in the United States. The complaint was received during the academic year July 1, 2002, through June 30, 2003, but did not specify a timeframe for the alleged improper moonlighting activities. Therefore, we reviewed the duty schedules, paid invoices, and payroll and timekeeping records for the period July 2002 through March 2003. We also interviewed the UCLA Residency Program Coordinator, the Chief of Anesthesiology, and selected healthcare system staff responsible for the Anesthesiology Department during the period January 2003 through May 2003. In addition, we discussed the allegations with an official in the VHA's Office of Academic Affiliations.

Our evaluation was conducted in accordance with Generally Accepted Government Auditing Standards for staff qualifications, independence, and due professional care; fieldwork standards for planning, supervision, and evidence; and reporting standards for performance audits.

² The ACGME defines moonlighting as a situation in which physicians work outside of their authorized residency training programs.

Results

Issue 1: Anesthesiology Residents Are Not Prohibited From Moonlighting

We did not substantiate the allegation that residents participating in residency training programs were prohibited from moonlighting for pay in their medical specialty and the healthcare system staff circumvented this prohibition by hiring the anesthesiology residents as “airway experts,” instead of anesthesiologists. In May 2001, the healthcare system created the Airway and Pain Management Consultants (APMC) fee-basis position to address a Joint Commission on Accreditation of Healthcare Organizations (JCAHO) recommendation. JCAHO had recommended that the healthcare system have qualified medical staff, such as anesthesiologists or Certified Registered Nurse Anesthetists (CRNAs), available for emergency intubations and advanced cardio life support procedures on nights and weekends. As a result, the Chief of Anesthesiology decided to hire licensed second-year or third-year anesthesiology residents as APMCs on a fee-basis to address JCAHO’s recommendation when a CRNA shortage made it difficult for the healthcare system to provide the recommended coverage.

The Chief of Anesthesiology believed the licensed anesthesiology residents could provide this coverage without compromising patient care or the residency training program. Consequently, the healthcare system appointed 10 moonlighting UCLA anesthesiology residents as APMCs on a rotating basis for the academic year 2002-2003. Our evaluation disclosed AAMC, ACGME, UCLA, and VA policies do not prohibit residents from moonlighting within their medical specialty during their residency training programs as long as the unsupervised residents only engage in activities for which they have been trained, licensed, credentialed, and privileged. These policies do not prohibit moonlighting but discourage the practice because of concerns over fatigue and the effect it may have on the patients’ and residents’ welfare. In this case, all of the anesthesiology residents hired as APMCs had completed their training and had been licensed, credentialed, and privileged to perform emergency intubations and advanced cardio life support procedures. Consequently, the healthcare system’s hiring of the UCLA anesthesiology residents as “airway experts” was not prohibited and the moonlighting residents could be legitimately hired under fee-basis arrangements to obtain needed medical services for patients.

Issue 2: Anesthesiology Residents Received Dual Compensation As APMCs

We substantiated the allegation that the healthcare system paid moonlighting UCLA anesthesiology residents additional compensation for providing coverage during weekends and nights, even though the residents were already compensated under the UCLA-VAGLAHCS residency training program disbursement agreement. During the academic year, residents in the UCLA-VAGLAHCS Internal Medicine Residency Training Program receive training assignments at the healthcare system. The anesthesiology residents are paid through a disbursement agreement between the healthcare system and UCLA whereby UCLA compensates the residents and bills the healthcare system monthly for the residents’ salaries and benefits. Under the disbursement agreement, the residents’ workday is 24 hours and their compensation is

based on a VA duty week.³ VA policy (VHA Manual M-8, Part II, Chapter 1) states the residents will be available and responsible for the care and welfare of VA patients on a 24-hour, 7-day a week basis while they perform their assignments at VA facilities. UCLA's resident training program policies also require residents to be responsible for patients on a continuous basis during daytime hours, nights, and weekends without any entitlement to additional compensation.

For the period July 2002 through March 2003, we reviewed and compared healthcare system timesheets for the moonlighting residents and UCLA anesthesiology resident duty schedules to determine if the residents received additional compensation for services already covered by the UCLA-VAGLAHCS residency training program disbursement agreement. During our review period, 5 of the 10 moonlighting residents had training assignments at the healthcare system and provided 27 episodes of fee-basis APMC coverage. Of the 27 episodes, 2 episodes involved 2 residents who were completing their training assignments at the healthcare system. As a result, the 2 moonlighting residents received their training program stipends but were also compensated an additional \$45 per hour (not the \$50 stated in the allegation) as APMCs for night, weekend, and holiday coverage. Because all resident duty hours are already included in the residency training program compensation, the healthcare system, in effect, paid the two residents twice for performing the same work during the same time period.

UCLA's Residency Program Coordinator (RPC) concurred with our assessment and stated that UCLA policy does not permit residents to moonlight at the healthcare system while receiving their residency training at the healthcare system. The RPC stated that this situation occurred due to an oversight and that the residents should not have been given a training assignment at the healthcare system while they were moonlighting. Due to this oversight, there were two separate instances where two moonlighting residents improperly received dual compensation from the healthcare system totaling about \$2,250 (50 hours x \$45) for services already covered by the UCLA-VAGLAHCS residency training disbursement agreement.

The Chief of Anesthesiology concurred with this assessment and stated that he would ensure the residents do not moonlight while they rotate through the healthcare system for a training assignment. In addition, the Chief of Anesthesiology stated the healthcare system planned to establish a new residency training program during academic year 2004 where the residents will be responsible for providing 24-hour, 7-day a week emergency and critical care coverage. According to the Chief of Anesthesiology, this new program will eliminate the need for moonlighting residents.

Although the problem of dual compensation should be resolved with the implementation of the new residency training program and the end of moonlighting, our review determined that the healthcare system also needed to strengthen timekeeping controls for anesthesiology residents. VHA policy requires facilities to maintain accurate resident time and attendance records to ensure the accurate billing of residents' time, establish the basis for healthcare system reimbursements, and allow the effective monitoring of residents' duty hours. However, the

³ The healthcare system's disbursement payments were consistent with guidance in VHA Directive 98-031 and UCLA residents were paid to work a 7-day week.

anesthesiology service timekeeper did not believe that the facility was required to maintain resident timekeeping records and did not ensure that all residents submitted timesheets. We determined that the timekeeper did not have a timesheet for one of the moonlighting residents who had completed his training at the healthcare system in January 2003. The moonlighting resident eventually submitted a timesheet to the timekeeper during the course of our review but it incorrectly stated that he had completed his training in February instead of January 2003.

Recommended Improvement Action(s) 1. We recommended that the Acting Healthcare System Director ensure that: (a) the Department of Anesthesiology monitors moonlighting anesthesiology residents to ensure that they do not receive additional compensation for duty hours already covered under the residency training program disbursement agreement and (b) anesthesiology resident timesheets are current, accurate, complete, and approved by the resident's supervisor in accordance with VHA policy. The Acting Healthcare System Director agreed and reported the Department of Anesthesiology is planning to implement a new residency program in September 2005 that will eliminate the need for moonlighting residents. In the interim, the Department of Anesthesiology has implemented communication, supervisory, and timekeeping controls to ensure residents are not being paid additional compensation for duty hours already covered under the residency disbursement agreement. We consider this matter resolved.

Issue 3: Residents Worked Excessive Duty Hours

We substantiated the allegation that residents worked longer shifts than what was allowed in residency training programs. The AAMC and ACGME had established resident duty hour standards related to resident rest periods, shifts, and workweeks to address concerns about the welfare of patients and residents. We found that the anesthesiology residents' shifts exceeded the AAMC's resident duty hour standards⁴ in effect during the period of our review, as well as the ACGME standards that were implemented in July 2003. The two standards had similar resident duty hour limits but the July 2003 standards went further and established minimum requirements for all accredited medical specialty programs. The July 2003 standards limited the resident duty and moonlighting hours averaged over a 4-week period to 80 hours per week; required a 10-hour rest period between resident duty periods; and limited a duty shift to 24 consecutive hours.

To assess whether anesthesiology residents worked excessive hours, we reviewed the moonlighting residents duty schedules and their September 2002 through December 2002 healthcare system timesheets to determine if their duty hours would have complied with the ACGME's July 2003 standards. We found 2 of the 10 moonlighting residents worked excessive hours in a week. For example, one resident worked an average of about 97 and 87 hours per week during the respective months of September and October 2002. (This resident also received the dual compensation.) Another resident worked an average of 90, 81, and 85 hours per week

⁴ In October 2001, the AAMC issued a policy statement on resident duty hour standards that included an upper limit of 80 hours per week, a consecutive hour shift limit of 24 hours, and moonlighting hours as part of the duty hour limit.

during the respective months of September, October, and November 2002. The main cause of the excessive average weekly hours worked by the two residents was due to a combination of their moonlighting activities and normal resident duty hours. For instance, during the month of September 2002, one of these residents worked 74 hours as a moonlighting APMC at the healthcare system in addition to the resident's training assignment.

The 10 moonlighting residents also worked several consecutive hour shifts ranging from about 25 to 49 hours at the healthcare system. These consecutive hour shifts exceeded the July 2003 ACGME standards that limit shifts to 24 consecutive hours and require residents to receive a minimum of 10 hours of rest between duty periods. These standards were established to reduce resident fatigue and promote the welfare of patients and residents. Accordingly, resident duty and moonlighting hours should be monitored and evaluated on a daily basis to combat resident fatigue and comply with ACGME standards. The Chief of Anesthesiology stated that the healthcare system would ensure that the resident duty and moonlighting hours are in compliance with the July 2003 ACGME standards.

Recommended Improvement Action(s) 2. We recommended that the Acting Healthcare System Director ensure that anesthesiology resident duty and moonlighting hours are coordinated with the affiliated university, documented, monitored, and evaluated on a daily basis to ensure compliance with ACGME standards. The Acting Healthcare System Director agreed and reported the Department of Anesthesiology had implemented timekeeping controls to ensure compliance with the ACGME standards by the effective date. Resident moonlighting and training schedules are being coordinated by the healthcare system and UCLA to ensure no resident is in violation of the duty hour standards. We consider this matter closed.

Conclusion

Based on our evaluation, we concluded that the first allegation was not substantiated and the second and third allegations were substantiated.

Comments

The Acting Healthcare System Director concurred with the evaluation findings and provided acceptable improvement plans. Also, he clarified two issues discussed on page 5 and page 6 of the report. His concerns were footnoted to clarify criteria (see footnotes 3 and 4). (See Appendix A, beginning on page 8 for the full text of the Acting Director's comments.) We consider all evaluation issues to be resolved but may follow up on implementation of planned improvement actions.

(original signed by:)

JANET C. MAH

Director, Los Angeles Audit Operations Division

Acting Director Comments

**Department of
Veterans Affairs**

Memorandum

Date: January 22, 2004

From: Acting Director, VA Greater Los Angeles Healthcare System (691/00)

Subject: **Evaluation of Allegations Regarding the Anesthesiology Residency Program at the VA Greater Los Angeles Healthcare System (Project No. 2003-00810-R7-0054)**

To: Assistant Inspector General for Auditing (52)

1. This is in response to your draft report of Evaluation of Allegations Regarding the Anesthesiology Residency Program at the VA Greater Los Angeles Healthcare System (GLA).

2. The draft report has been thoroughly reviewed. This response has been written with input from Richard Chen, MD, Acting Chief of Anesthesiology, Brian Murphy, MD, Senior Resident and Resident Schedule Coordinator, UCLA David Geffen School of Medicine Department of Anesthesiology, and Cathy Oleon, Anesthesiology timekeeper and has been thoroughly reviewed by Arthur Friedlander, DMD, Associate Chief of Staff for Education, and Dean C. Norman, MD, Chief of Staff. GLA has the following corrections to make.

On page 5, GLA differs in opinion with the OIG's interpretation of VHA policy regarding VA duty hours. The OIG draft report references VHA Manual M-8, Section II, Chapter 1 that "residents will be available and responsible for the care and welfare of VA patients on a 24-hour, 7-day a week basis ...". VHA Directive 98-031 (which expired 7/6/2003) contains two paragraphs that allow for using a 5-day week or pro-rating resident time in accordance with program/patient care schedule realities. VHA Directive 98-031 was dated 1998 while VHA Manual M-8, Part II, Chapter 1 is dated January 26, 1990. It is the opinion of GLA that VHA Directive 98-031 supercedes the manual and/or expands upon the earlier definition. GLA Office of the ACOS Education has confirmation from the VHA Office of Academic Affiliation dated January 12, 2004, that states that even though Directive 98-031 expired July 6, 2003, it is being renewed and that everything is still in effect and therefore relevant. In addition, in the actual UCLA disbursement agreement, VA duty is in 24-hour increments, and there is no reference to 7 days a week. Further clarification or changes from VHA will be needed in this area to be in agreement with ACGME guidelines.

On page 6, issue 3, GLA differs in opinion with the OIG's interpretation of AAMC and ACGME policies regarding resident duty hour limitations. The draft report states that the anesthesiology residents' duty hours exceeded the policy in effect at the time of review. However, the GLA Office of the ACOS for Education notes that the Association of American Medical Colleges' Policy Guidance on Graduate Medical Education dated October 2001 was actually a position paper proposing specific limits to resident duty hours that were subsequently instituted by the ACGME effective July 1, 2003.

**Acting Director's Comments
to Office of Inspector General's Report**

3. The following Acting Director's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommended Improvement Action(s) 1. We recommend that the Acting Healthcare System Director ensure that: (a) the Department of Anesthesiology monitors moonlighting residents to ensure that they do not receive additional compensation for duty hours already covered under the residency training program disbursement agreement and (b) Anesthesiology resident timesheets are current, accurate, and complete and approved by the resident's supervisor in accordance with VHA policy.

Concur **Target Completion Dates:** January 2, 2004/September 2005

Response: Concur. As stated in the draft report, the Department of Anesthesiology is planning to implement a new residency training program that will include 24-hour, 7-day a week emergency and critical care coverage. This program will eliminate the need for moonlighting residents. Unfortunately, due to existing difficulties in hiring the specialized staff needed to start this specialized residency program the implementation is not expected to occur before September 2005.

The current interim plan has been developed and implemented as of January 2, 2004. The Acting Chief of Anesthesiology reviews both the "regular work schedule" and the "moonlighting schedule" of the residents in order to ensure that they are not being paid additional compensation for duty hours already covered under the residency training disbursement agreement. Documentation of these reviews will be submitted on a quarterly basis to the Office of the Chief of Staff. The rotation schedule is completed and sent by UCLA (Senior Resident, Resident Schedule Coordinator) at the beginning of the academic year with any monthly revisions being made at least one week prior to each month's schedule, and the monthly moonlighting schedule is developed utilizing information from this rotation schedule. Any changes to the rotation schedule will be communicated by UCLA immediately to the Acting Chief of Anesthesiology and the appropriate corrections, if needed, will be made to the moonlighting schedule.

The anesthesiology residents' timekeeper currently has a daily sign-in sheet that each resident must complete with an approval signature by one of the anesthesiology staff. The anesthesiology timekeeper will review each sign-in sheet on a daily basis to determine whether or not a resident has exceeded the scheduled hours. If a discrepancy is discovered, the timekeeper will notify the Chief of Anesthesiology and UCLA to appropriately adjust the resident's schedule as needed.

Recommended Improvement Action(s) 2. We recommend that the Acting Healthcare System Director ensure that Anesthesiology resident duty and moonlighting hours are coordinated with the affiliated university, documented, monitored, and evaluated on a daily basis to ensure compliance with ACGME standards.

Concur **Target Completion Date:** July 1, 2003

Response: Concur. The issues related to this recommendation have been addressed as of July 1, 2003. At the time of the IG audit, changes in policy and practice related to the ACGME standards effective July 1, 2003 had not been implemented. With regards to the new standards for resident work hours, there are two main points that UCLA (Anesthesiology Chief Resident) takes into consideration when developing the rotation schedule: the 24-hour rule and the 80-hour rule. The 24-hour rule requires residents to receive a minimum of 10 hours off between shifts. (To illustrate, a resident would never be required to work a Sunday night shift (7pm to 7am) and a Monday morning shift.) The 80-hour rule requires that residents do not work more than an average of 80 hours per week each month. UCLA schedules Anesthesiology residents to work an average of 60 hours per week in blocks of 240 hours per month. As stated in the response to Recommendation 1, the moonlighting schedule is created with access to the rotation schedule to ensure that residents who are currently on rotation at GLA are not put on the moonlighting schedule. The residents' timekeeper reviews the hours scheduled for each resident prior to developing the moonlighting schedule. The Acting Chief of Anesthesiology will review each schedule with the timekeeper for appropriate hours and sign approval of the moonlighting schedule. The moonlighting schedule is also sent to the Senior Resident in charge of resident scheduling at UCLA who reviews the hours scheduled for each resident to ensure that no resident is in violation of the 24-hour rule and the 80-hour rule. If any resident is scheduled in violation of these rules, the Chief Resident will contact the Acting Chief of Anesthesiology and the appropriate changes will be made to the schedule.

4. In conclusion, GLA concurs with the recommendations in the draft report and have developed and implemented plans to address them.

5. If you have any questions regarding this report please contact Dean C. Norman, M.D., Chief of Staff, at 310-268-3284.

Charles M. Dorman, FACHE

OIG Contact and Staff Acknowledgments

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