

# Department of Veterans Affairs

# Memorandum

Date: March 20, 2012

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation, Misuse of Position, Preferential Treatment and Failure to Follow VA Policy, Veterans Integrated Service Network 11, Ann Arbor, Michigan, and Saginaw VA Medical Center (2011-03398-IQ-0194)

To: Director, Veterans Integrated Service Network 11 (10N11)

1. The VA Office of Inspector General Administrative Investigations Division investigated an allegation that Dr. Alan Pawlow, Veterans Integrated Service Network (VISN) Chief Medical Officer, misused his position when he used his influence to detail [REDACTED] to the position of [REDACTED]. We also investigated whether Saginaw VA Medical Center Director and Human Resources (HR) personnel followed VA policy in extending [REDACTED]'s temporary detail. To assess these matters, we interviewed you; Dr. Pawlow; [REDACTED]; Ms. Theresa Kurtinaitis, VISN Clinical Program Manager; Ms. Denise Deitzen, Saginaw VA Medical Center Director; Mr. Edward Lesko, Saginaw VA Medical Center HR Officer; and other VISN and Medical Center employees. We also reviewed email, personnel, and travel records, as well as Federal laws, regulations, and VA policy.
2. We concluded that Dr. Pawlow misused his position when he recommended [REDACTED] a close personal friend, for the PACT COE Program Director detail and when he sent her proprietary information in an effort to give her an advantage in the application process for the permanent position. We suggest that you emphasize to Dr. Pawlow that misusing his position and engaging in preferential treatment diminishes his position and authority as the VISN Chief Medical Officer and that as a senior leader, he is not only held to a higher standard but he sets the tone for his subordinates to follow. We also suggest that you ensure that Dr. Pawlow takes refresher ethics training, refrains from providing [REDACTED] proprietary information, and formally recuses himself from any future personnel matters concerning [REDACTED]. In addition, we found that Ms. Deitzen and the Saginaw HR Office failed to follow policy when they did not ensure that paperwork was properly processed in a timely manner to extend [REDACTED]'s detail. We suggest that Ms. Deitzen and HR personnel receive refresher training on VA policy concerning detailing employees. **No response is necessary.**

### *Misuse of Position and Preferential Treatment*

3. Standards of Ethical Conduct for Employees of the Executive Branch require employees to act impartially and not give preferential treatment to any individual, and to avoid any actions creating the appearance that they are violating the law or ethical standards. 5 CFR § 2635.101(b)(8) and (14). In addition they prohibit employees from

using their public office for private gain or for the private gain of friends or relatives. Id., at 2635.702.

4. Dr. Pawlow and ██████ told us that they met in 2005 when he became the Saginaw VA Medical Center Chief of Staff. They said that in December 2006, ██████ began working for Dr. Pawlow as his ██████ and that she worked in that capacity until December 2008 when Dr. Pawlow assumed his current position as the VISN Chief Medical Officer in Ann Arbor. Dr. Pawlow said that they developed a friendship while working in Saginaw, and they "maintained that relationship throughout the years." ██████ said that they socialized with coworkers as a group and that she occasionally watched Dr. Pawlow's dog when he and his former wife were out of town. Dr. Pawlow told us that he and his former wife both socialized with ██████ and that ██████ would call him occasionally for "help and stuff like that." He said that he and his wife divorced in the fall of 2010 and that he "reached out" to ██████ for help with tasks like laundry and cooking. He further said that he and ██████ began dating in March 2011.

5. Email records reflected that between November 10, 2010, and December 21, 2010, Dr. Pawlow sent ██████ 12 job announcements for positions at the VISN Office to her VA-assigned and/or personal email accounts. In his emails, he told ██████ to "Take a gander!" or "Here is the web page so you can look at anytime..." or "Keeping you in the loop..." Dr. Pawlow told us that he sent ██████ the job announcements because "she was not happy at her current job."

6. You told us that in late 2010 someone with the PACT program office asked you to host a VISN COE. You said that you instructed Dr. Pawlow and Mr. Zapata to develop a COE proposal. Ms. Kurtinaitis told us that Dr. Pawlow asked her to work with Mr. Zapata to develop the COE proposal, and Mr. Zapata told us that he and Ms. Kurtinaitis drafted the proposal. Mr. Zapata said that Dr. Pawlow covered the clinical component, reviewed draft proposals, provided feedback, and discussed funding with the PACT Director. Dr. Pawlow told us that his primary involvement was to coordinate the developing process for the clinical aspects and to be in charge of "who is going to do what, why, when, and how to get this and get it done."

7. Email records reflected that the development of the COE program began in late November 2010, and Ms. Kurtinaitis told us that drafts for the proposal were developed during December 2010. Ms. Kurtinaitis said that during a December meeting she suggested two employees that she felt were good candidates for the ██████ position. She told us that in response to her suggestions, Dr. Pawlow told her that it was "not appropriate to name any names" before the proposal was finalized. Ms. Lisa Goldstein, VISN 11 Clinical Program Manager, told us that in response to Ms. Kurtinaitis' suggestions, Dr. Pawlow said, "we're not talking about people right now. I don't want to hear about it." She said that Ms. Kurtinaitis also suggested that she (Ms. Goldstein) may also be a good fit for the director position and that "[Dr. Pawlow] again said, 'I don't want to hear about it. We're not discussing that right now.'" Dr. Pawlow told us that at that point in time it was his priority to "get the proposal in" and

that he wanted to finish writing the proposal before discussing names for the director position. Email records reflected the VISN COE PACT proposal was submitted on December 22, 2010.

8. Dr. Pawlow told us that 2 or 3 weeks later, he recommended [REDACTED] for the [REDACTED] position. He said that Mr. Zapata had not yet made a selection for the position and asked him (Dr. Pawlow) for help. Dr. Pawlow said that he "wasn't part of any discussions" concerning candidates for the COE director position; he "did not know who else was being considered;" and other than [REDACTED] he did not recommend any other individual for the position. Dr. Pawlow told us that he "knew [REDACTED] was capable... knew the work that she should do and offered the person that possibly can do the work." He said that the VISN was the last COE to implement the program and that the position was created as a "detail" to fill it immediately.

9. Email records reflected that on November 30, 2010, Dr. Pawlow forwarded an email with the subject line "Fw: PACT Centers of Excellence" to [REDACTED]'s VA-assigned and personal email addresses. The email contained communications between you and the Acting Director of the Transformation Initiative Learning Center. The email had attachments for two other Network PACT COE proposals and a Request for Proposal for the VISN PACT COE described as "background information." The email also contained information regarding upcoming plans for the VISN to establish a PACT COE. Dr. Pawlow told us that he forwarded this information to [REDACTED] so that she could prepare for an interview with Mr. Zapata for the [REDACTED] position.

10. On December 25, 2010, Dr. Pawlow forwarded an email to [REDACTED]'s VA-assigned and personal email addresses that reflected the VISN submitted their proposal for the PACT program. In the body of the email, which included the proposal as an attachment, Dr. Pawlow wrote to [REDACTED] "DO NOT FORWARD!!!! This is what was submitted." Again, on December 25, 2010, Dr. Pawlow forwarded to [REDACTED]'s VA-assigned and personal email addresses an email chain with the subject line "FW: Memo regarding PACT Team Training and inclusion of HBCs and HPDP PMs," and said "DO NOT FORWARD... Keeping you well informed..." Dr. Pawlow told us he wanted [REDACTED] to keep the emails private, because it was "not formal yet" and "it wasn't ready to be released to front-line staff." Dr. Pawlow said that Mr. Zapata already called [REDACTED] for a possible detail and that "she wanted to know what the work would entail to know whether she wanted to do the detail." Dr. Pawlow told us, "I didn't see it as favoritism. I saw it as I'm [REDACTED] being asked to possibly come down for a detail. I want to know what I'm being asked to do."

11. Personnel records reflected that [REDACTED] began her detail on January 19, 2011, with an original not to exceed date of April 19, 2011. It was later extended to June 18, 2011, and then again to August 29, 2011. Email records reflected that [REDACTED] submitted an application for the permanent PACT COE director position, officially titled Supervisory Health System Specialist (PACT), on May 2, 2011, after the position was advertised as a permanent position. Mr. Zapata, the approving official for the position, told us that he convened a selection panel to interview the applicants, review the

application materials, and interview the final candidates, which included [REDACTED] and a VISN employee.

12. Mr. Zapata told us that prior to his final selection for the PACT position, two of his subordinates told him that they were aware of Dr. Pawlow's personal relationship with [REDACTED] the prevalence of this knowledge at the VISN and the Saginaw Medical Center; and their concerns about the appearance of preferential treatment. Mr. Zapata said that in response to these conversations he immediately discussed the matter with you and then several times thereafter. You told us that Mr. Zapata told you that Dr. Pawlow and [REDACTED] were involved in a personal relationship; it was "infecting morale in the office;" and "there was word about maybe the fix is in for her to get the Center of Excellence Director job." You said that you then spoke with Dr. Pawlow and that Dr. Pawlow confirmed that he had a personal relationship with [REDACTED]; he was not in her chain of command; and he "insisted" that he did not put any pressure on Mr. Zapata to select [REDACTED]. You said that you told Dr. Pawlow that "there was to be no actions, in any way, that would shape either a selection for the position, or supervisor, or anything related, that could possibly be construed as preferential treatment."

13. You told us that Mr. Zapata expressed a concern that "somebody was going to be upset, regardless of who got selected" for the permanent position, and you said that in response, you told Mr. Zapata, "you're going to need to make the best selection you can make; follow the criteria; use a panel; recuse yourself if you have to; but make the right selection." Mr. Zapata told us that he selected another applicant for the position based on the applications, the interviews, and the panel recommendations. He said that the panel did not recommend [REDACTED] for the position.

14. Mr. Zapata told us that during [REDACTED]'s detail, Dr. Pawlow was not in her chain of command and that she reported directly to him (Mr. Zapata), with you as her second line supervisor. You told us that although there was not a direct line of authority between Dr. Pawlow and [REDACTED], Dr. Pawlow was in a "position implicitly of power" and that the "perception" was an issue for Dr. Pawlow. You said that "whether you're in the line of authority or it's just perceived you're in the line of authority, you're perceived to be in the chain of command."

#### *Failure to Follow Policy*

15. VA policy states that employees may be formally detailed in 120-day increments to the same or lower grade positions for up to 1 year and that the detail will be initiated by a Standard Form (SF) 52, Request for Personnel Action, and forwarded to the HR Management office for action. It also states that another SF52 will be necessary to extend or to terminate the detail. VA Handbook 5005, Part 3, Chapter 2, Paragraph 13c (April 15, 2002).

16. Personnel records reflected that an HR Specialist completed an SF52 detailing [REDACTED] to the VISN effective January 19, 2011, with the detail not to exceed

April 19, 2011. A second SF52 reflected that the detail terminated April 19, 2011. Travel records reflected that between January 18, 2011, and September 7, 2011, (b) (7)(C) was on official travel from the Saginaw VA Medical Center to the VISN on 26 separate occasions for a temporary detail. Records reflected that she sought compensation for mileage and per diem but not lodging. (b) (7)(C) told us that on those occasions, she stayed with family and there were no lodging costs for her travel to Ann Arbor. Personnel records did not contain any paperwork reflecting that her detail was extended beyond April 19, 2011, to September 2011.

17. Mr. Lesko told us that (b) (7)(C)'s detail expired because he said that they "didn't keep track of it" from within his office. He said that he subsequently confirmed with Ms. Deitzen that she approved extending (b) (7)(C)'s detail and then processed the SF52s retroactively for the extensions. Ms. Deitzen told us that she was the approving official to extend (b) (7)(C)'s detail; however, she said that it was more of a notification process than an approval process to keep (b) (7)(C) in place until the position was filled permanently. Personnel records reflected that on August 29, 2011, Mr. Lesko retroactively processed SF52s extending (b) (7)(C)'s detail from April 20, 2011, to June 18, 2011, and from June 19, 2011, to August 28, 2011, and an SF52 terminating (b) (7)(C)'s detail effective August 28, 2011.

#### *Conclusion*

18. We concluded that Dr. Pawlow misused his position when he recommended (b) (7)(C), a close personal friend, for the (b) (7)(C) detail and when he sent her proprietary information in an effort to give her an advantage in the application process for the permanent position. We suggest that you emphasize to Dr. Pawlow that misusing his position and engaging in preferential treatment diminishes his position and authority as the VISN Chief Medical Officer and that as a senior leader, he is not only held to a higher standard but he sets the tone for his subordinates to follow. We also suggest that you ensure that Dr. Pawlow takes refresher ethics training, refrains from providing (b) (7)(C) proprietary information, and formally recuses himself from any future personnel matters concerning (b) (7)(C). In addition, we found that Ms. Deitzen and the Saginaw HR Office failed to follow policy when they did not ensure that paperwork was properly processed in a timely manner to extend (b) (7)(C)'s detail. We suggest that Ms. Deitzen and HR personnel receive refresher training on VA policy concerning detailing employees.

19. We are providing you this memorandum for your information and official use and whatever action you deem appropriate. It is subject to the provisions of the Privacy Act of 1974 (5 U.S.C. § 552a). You may discuss the contents of this memorandum with the identified parties within the bounds of the Privacy Act; however, you may not release a copy of the memorandum to them. If you have any questions, please contact [REDACTED]

**WARNING**  
**5 U.S.C. §55A, PRIVACY ACT STATEMENT**

**This memorandum contains information subject to the provisions of the Privacy Act of 1974 (5 U.S.C. §55a). Such information may be disclosed only as authorized by this statute. Questions concerning release of this memorandum should be coordinated with the Department of Veterans Affairs, Office of Inspector General. The contents of this memorandum must be safeguarded from unauthorized disclosure and may be shared within the Department of Veterans Affairs on a need-to-know basis only.**