



DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF INSPECTOR GENERAL

Office of Special Reviews

VETERANS HEALTH ADMINISTRATION

Allegations of Nepotism at
the Miami VA Healthcare
System in Florida

ADMINISTRATIVE
INVESTIGATION

REPORT #18-01781-200

JULY 28, 2020



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Background and Relevant Legal Authority

The Office of Inspector General (OIG) investigated a non-specific allegation that chief nurses within the Miami VA Health Care System (Miami HCS) violated the federal anti-nepotism statute by arranging to have their spouses hired for positions for which the spouses were not qualified.¹ This allegation could not be substantiated. In addition, a specific allegation of nepotism was made pertaining to the conduct of a particular chief nurse. This allegation was substantiated. To assess the allegations, the OIG interviewed the complainant, the chief nurse, the chief nurse's supervisor, and staff involved in the hiring process.² The OIG reviewed emails, personnel records, federal regulations, VA training materials, guidance, and VA policies.

Both VA policy and federal law prohibit a public official from advocating for the employment of a relative in a civilian position in the agency in which the public official serves.

A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official.³

The VA policy further states that “[p]ublic officials may not recommend or refer a relative for consideration by a public official standing lower in the chain of command.”⁴

Under the statute, a public official is “an officer..., a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement, in connection with employment in an agency.”⁵

The alleged misconduct implicated 18 U.S.C. § 208, a federal criminal statute that prohibits a federal employee from participating in a matter in which he or she has a personal financial

¹ As part of an organizational realignment, the staff of the OIG's former Administrative Investigations Division have been merged with staff from the Office of Special Reviews, which has assumed responsibility for supervising and publishing the results of the Administrative Investigation Division's pending cases. This reorganization and other personnel changes increased the time required to publish this report.

² The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Investigations*.

³ 5 U.S.C. § 3110(b). *See also* VA Handbook 5025, *Legal*, Part VII 3.a.

⁴ VA Handbook 5025, *Legal*, Part VII 3.a.

⁵ 5 U.S.C. § 3110(a)(2).

interest. The prospective employment of a spouse, which was alleged, would be considered a personal financial interest.⁶

Investigative Results

A Chief Nurse Advocated in Favor of Hiring a Family Member, Contrary to the Anti-Nepotism Statute

The OIG could not substantiate the allegation that multiple chief nurses at the Miami HCS were violating the anti-nepotism rule. The OIG's analysis of all hires for the previous two years did not reveal any instances of hiring by the Miami HCS in violation of the anti-nepotism statute.⁷ The OIG substantiated the allegation that the chief nurse of service line A (the chief nurse) advocated for the hiring of the chief nurse's spouse (the spouse) also as a nurse at the Miami HCS in violation of the anti-nepotism statute. The OIG determined that although the spouse was deemed qualified and approved for hiring via the established process, the spouse withdrew from consideration and was not hired for the position.

The chief nurse falls under the statutory definition of a public official and was prohibited from advocating for the employment by the VA of the spouse.⁸ When the chief nurse began working at the Miami HCS, the chief nurse's supervisor encouraged the chief nurse to have the spouse apply for employment at VA because they were "in need of competent" nurses. The spouse was a registered nurse with over 25 years of experience in several different specialty areas of practice.

The chief nurse was involved in two communications relating to the spouse's possible employment at VA. On the first occasion, the chief nurse provided the spouse's résumé to a peer, the chief nurse of a different specialty practice, with a note saying, "Here is my [spouse's] resume as requested." It does not appear that any action was taken in response to this email. The OIG does not consider this communication to constitute advocacy.

The chief nurse thereafter provided the spouse's résumé via email to two nurse managers,⁹ one in service line B and one in service line C, responsible for staffing their respective service lines, stating,

⁶ 18 U.S.C. § 208(a). The OIG referred this matter to the U.S. Department of Justice (DOJ) for consideration. The DOJ declined to open an investigation.

⁷ The OIG *substantiates* allegations when the facts and findings support that the alleged events or actions took place. The OIG *does not substantiate* allegations when the facts show the allegations are unfounded. The OIG *cannot substantiate* allegations when there is no conclusive evidence to either sustain or refute the allegation.

⁸ 5 U.S.C. § 3110(a)(2).

⁹ The two nurse managers did not report to the chief nurse but reported to another chief nurse who reported to the same supervisor as the chief nurse.

Per our conversation, here is my [spouse's] resume. I appreciate you taking a look and hope that you both would be willing to interview [him/her] and offer [him/her] something. [He/she] is a very experienced RN, and is well respected and well regarded everywhere [he/she] works. As I stated on the phone, time is a factor for us because we are due to close on our house in the next 3 - 4 weeks and we both need to be able to demonstrate that we have income in Florida (the lender will not accept [the spouse's current state] income when applying for a Florida loan). [My spouse] can start whenever you need [him/her] as [he/she] is currently working in [a non-VA healthcare system] – we have already moved our household items into storage - so [he/she] and the kids are just waiting for the house to be finished, but that would not hold [him/her] back from coming as soon as you can take [him/her]. Thank you again for being willing to take a look at this resume. I know that you can't make me any promises, but I am hoping that you can work something out.¹⁰

This email goes beyond merely transmittal of the résumé. The chief nurse is promoting the spouse's candidacy for employment and providing an endorsement of the spouse's qualifications. Accordingly, the email constitutes advocacy, which is contrary to the anti-nepotism statute.

Thereafter, both nurse managers participated in panel interviews of the spouse. Neither nurse manager felt any pressure to interview or hire the spouse. One of the nurse managers consulted with her chief to make sure "there wasn't any issue with nepotism." After a selection process that included verification of the spouse's credentials and references, the spouse was recommended by the independent panel for employment in both units (a permanent position and a pool position) and the selection to the permanent position was approved by the VA Nursing Professional Standards Board and the medical center director. However, before the hiring was finalized, the spouse withdrew his/her application without providing an explanation and was not hired.

Beyond these actions, the chief nurse was not involved in the recruitment and selection of the spouse for a nursing position at Miami HCS.

¹⁰ According to the chief nurse's supervisor, she did not suggest or advise the chief nurse to ask others to interview the spouse or to offer the spouse a position.

Conclusion

The OIG could not substantiate the allegation that chief nurses within the Miami HCS violated the federal anti-nepotism statute by arranging to have their spouses hired for positions for which the spouses were not qualified. The OIG substantiated the allegation that the chief nurse violated the anti-nepotism statute by recommending the spouse for a position at the Miami HCS. The OIG makes one recommendation.

Recommendation

1. The Miami VA Health Care System Director determines the appropriate administrative action to take, if any, with respect to the chief nurse's advocacy in favor of hiring the spouse.

Management Comments

VA concurred with the OIG's finding and determined administrative action at this time is unwarranted. VA's response in its entirety can be found in Appendix A.

OIG Response

The OIG considers the recommendation closed.



R. JAMES MITCHELL, ESQ.
Acting Assistant Inspector General
for the Office of Special Reviews

Appendix A: Management Comments

**Department of
Veterans Affairs**

Memorandum

Date: June 5, 2020

From: Director, Miami VA Healthcare System (546/00)

Subj: OIG Report, *Allegations of Nepotism at the Miami VA Healthcare system*, Project No. 2018-01781-SR-0108

To: Executive Director, Office of Special Reviews

1. On April 21, 2020, the Miami VA Healthcare System received a summary report from the Office of the Inspector General (OIG) related to an investigation for a non-specific allegation that chief nurses within the Miami VA Healthcare system violated the federal anti-nepotism statute by arranging to have their spouses hired for positions for which the spouses were not qualified.
2. Response is being provided by Marcus James, Acting HR Officer
3. The summary report from the OIG indicates that the OIG substantiated an allegation that a Chief Nurse at the Miami VA Healthcare System violated the anti-nepotism statute by recommending her spouse for a position at the Miami VA Healthcare System. Leadership at the Miami VA concurs with this finding.
4. In addition, the summary report from the OIG recommends that the Miami VA Healthcare System Director determine the appropriate administrative action to take, if any, with respect to the Chief Nurse's advocacy in favor of hiring her spouse. Leadership at the Miami VA concurs with this finding. After reviewing the facts of this case, I have determined that administrative action would be unwarranted at the present time. This Chief Nurse began employment at the Miami VA in June 2016 and this incident occurred in 2017. This incident occurred approximately three years ago. The employee was newly appointed to a VA leadership role and has learned the fundamental rules and regulations related to nepotism in the Federal Government since that time.
5. The goal of the Miami VA Healthcare System moving forward is to ensure that incidents like this do not recur and several measures have been set in place. When a new employee begins employment at the Miami VA Healthcare System, they must attend a mandatory New Employee Orientation that includes a Power Point presentation on ethics in the workplace to include information on nepotism. Also, there is a mandatory requirement for all VA employees to complete a course on Whistleblower Rights and Protection through the VA Talent Management

6. System and a requirement to complete an annual Government ethics training.
7. In addition, when an applicant receives a tentative offer from the Miami VA Healthcare System, they must complete form OF-306, "Declaration for Federal Employment". Question 16 in this form asks the applicant if the applicant has any relatives working for the agency or government organization to which they are submitting the form. If the applicant states yes, then the Miami VA conducts nepotism clearance procedures to ensure that OPM and VA nepotism regulations have been met. Also, Human Resources Specialists bringing a new employee on board to the Miami VA use a screening checklist which includes nepotism clearance.
8. We are continually striving to provide the best possible care to Veterans and appreciate any feedback that may lead to an improvement in our services. Should you require further assistance, please contact Marcus James at (305) 575-7000 ext.13343

(Original signed by:
Kalautie S. JangDhari

OIG Contact and Staff Acknowledgments

Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
Primary Contributors	Samantha Petrich, Attorney

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