



DEPARTMENT OF VETERANS AFFAIRS  
**OFFICE OF INSPECTOR GENERAL**

*Office of Special Reviews*

VETERANS HEALTH ADMINISTRATION

Stronger Controls Help  
Ensure People Barred from  
Paid Federal Healthcare Jobs  
Do Not Work for VHA

ADMINISTRATIVE  
INVESTIGATION

REPORT #22-02721-77

MARCH 14, 2023



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## Executive Summary

Under federal law and VA policy, the Veterans Health Administration (VHA) cannot employ individuals in paid positions if they have been excluded from federal healthcare programs by the Department of Health and Human Services Office of Inspector General (HHS OIG).<sup>1</sup> Exclusions can result from the individual's role in committing healthcare fraud, patient abuse, controlled substance violations, or acts subject to license revocation, among other misconduct.<sup>2</sup> The HHS OIG maintains a list of those who have been barred, known as the List of Excluded Individuals and Entities (LEIE). In March 2022, the VA Office of Inspector General (OIG) reviewed data indicating that VHA employed four individuals who appeared on the LEIE. The OIG initiated this administrative investigation to determine whether VHA had paid excluded individuals in violation of federal law and VA policy and to address concerns about excluded individuals potentially being in patient care positions. This administrative investigation did not examine whether VHA employed excluded individuals other than those identified through an analysis of payroll data at a single point in time.<sup>3</sup>

The OIG found that in the first pay period of January 2022, the data match revealed VHA was employing four individuals who were formerly nursing professionals, but were not in patient care positions while employed by VHA. They were hired to perform janitorial or clerical services. Three were on the list because of nursing license revocation or suspension, while the fourth was excluded due to a conviction for healthcare fraud. While none of these individuals were employed in VHA patient care positions, federal law and VA policy prohibit their employment in any paid capacity within VHA.<sup>4</sup> The LEIE screening is meant to prevent individuals who have been found unsuited for working in a federally funded healthcare program from having access to medical facilities that need to protect their assets, patients, and information systems.<sup>5</sup>

VHA had procedures in place to check the LEIE both before and after hiring employees.

Although the OIG conducted a review for a snapshot in time and cannot comment on the overall

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<sup>1</sup> 42 U.S.C. § 1320a-7; VA Handbook 5005, *Staffing*, part II, chap. 1, sec. B(2)(b), April 15, 2002; VA Handbook 5021/2, *Employee/Management Relations*, part I, chap. 3, para. 5(g), part VI, para. 10(f), June 26, 2003. An individual who violates their exclusion may be subject to civil monetary penalties, criminal prosecution, and other monetary assessments. 42 U.S.C. §§ 1320a-7a(1)(D), 1320a-7b(a)(3). Similarly, a healthcare entity that contracts with a person it knows or should know is excluded can be forced to pay civil monetary penalties if the excluded person provides services payable by a federal healthcare program. 42 U.S.C. § 1320a-7a(6).

<sup>2</sup> 42 U.S.C. § 1320a-7(a)-(b).

<sup>3</sup> In particular, the OIG did not examine historical records to identify previous violations or continue to analyze whether VHA hired excluded employees after the review period. For more information on the scope and methodology of this investigation, see appendix A.

<sup>4</sup> 42 U.S.C. § 1320a-7; VA Handbook 5005, part II, chap. 1, sec. B(2)(b); VA Handbook 5021/2, part I, chap. 3, para. 5(g), part VI, para. 10(f).

<sup>5</sup> HHS OIG, *Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs*, at 1–2, May 8, 2013.

effectiveness of these procedures, the OIG notes that four employees is an extremely small percentage of VHA's workforce. The administrative investigators found, however, that a series of process failures led to these four violations that warrant VHA leaders' attention. Per VA policy, VHA human resources (HR) staff at each of the Veterans Integrated Service Networks (VISNs) search the online LEIE database before hiring new employees.<sup>6</sup> In addition, the VHA Office of Integrity and Compliance (OIC) conducts a monthly review using a computer program that compares current VHA payment data for employees and contractors to social security numbers on the LEIE.<sup>7</sup>

Three of the four employees discussed in this report had changed their surnames since being added to the LEIE. Because VHA HR staff only searched the employees' current names, they did not identify matches against the list. The OIG found that there was no national VHA policy or guidance requiring VHA HR staff to search candidates' prior names. With respect to the OIC's monthly monitoring, an apparent coding error in the computer program prevented it from identifying the same three excluded employees; the error has since been corrected.

The OIG found that human error led to the fourth employee being hired and retained by VHA for approximately seven months until the employee died in February 2022. This employee's exclusion record was retrieved before their hiring, but the VISN HR staff who pulled it mistakenly believed that the exclusion would be addressed later in a background check process.<sup>8</sup> The OIC also found the employee's exclusion record during routine monthly monitoring but inadvertently failed to notify VISN compliance staff.

Once the OIG alerted VHA to these potential LEIE violations during the course of the investigation, VHA initiated actions to terminate the three remaining employees, and the OIG confirmed they are no longer working at VHA. The notified OIC and VHA HR leaders responded promptly that they planned to undertake corrective actions to address the process failures that led to these individuals' employment. While these suggested corrective actions appear responsive to OIG concerns, this report includes two recommendations for completing policy and process improvements that ensure planned corrective actions are sufficiently implemented, as well as any additional actions needed to prevent these violations from recurring. The third recommendation requires VHA to conduct a comprehensive one-time audit of its employees against the LEIE using social security number-based matching practices, and, if

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<sup>6</sup> VA Handbook 5005, part II, chap. 1, sec. B(2)(c)-(d). VA administers healthcare services through a nationwide network of 18 regional systems called Veterans Integrated Service Networks.

<sup>7</sup> VHA Integrity and Compliance, *Screening Procedures for Government Sanctions Lists, Individual and Entity Exclusions*, January 28, 2021.

<sup>8</sup> This process is referred to as the "suitability" process within VA. See VA Directive 0710, *Personnel Security and Suitability Program*, June 4, 2010.

violations are found, determine whether any additional changes to policies and procedures are warranted.<sup>9</sup>

## **VA Comments and OIG Response**

The OIG provided VA with the opportunity to review and comment on this report. The under secretary for health responded by concurring with all recommendations. VA's response is included in its entirety as appendix B. The OIG considers all three recommendations open at this time. Although the under secretary's response indicates that VHA completed recommendation 2 on January 18, 2023, the response is insufficient to close the recommendation because it addresses only the programming error, which was corrected in September 2022. The OIG will continue to monitor VA's response to all recommendations until sufficient documentation has been received to close them as implemented.



**R. JAMES MITCHELL**  
Assistant Inspector General  
for Special Reviews

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<sup>9</sup> Shortly before completing this investigation, the OIG team learned of two additional possible violations that occurred outside the review period—at least one of which VHA was already aware. The audit proposed in recommendation 3 calls on VHA staff to identify and address the causes of these and any other identified violations.

## Contents

Executive Summary .....	i
Abbreviations .....	v
Introduction.....	1
Finding and Analysis .....	3
Finding: Due to Errors in Its Screening Processes, VHA Hired and Retained Four Former Nursing Professionals Barred from Paid Employment by Federally Funded Healthcare Programs.....	3
Conclusion .....	8
Recommendations.....	9
VA Comments and OIG Response .....	10
Appendix A: Scope and Methodology.....	11
Appendix B: VA Management Comments .....	12
OIG Contact and Staff Acknowledgments .....	15
Report Distribution .....	16

## Abbreviations

HHS OIG	Department of Health and Human Services Office of Inspector General
HR	Human Resources
LEIE	List of Excluded Individuals and Entities
OIC	VHA Office of Integrity and Compliance
OIG	VA Office of Inspector General
WMC	VHA Office of Workforce Management and Consulting
VHA	Veterans Health Administration
VISN	Veterans Integrated Service Network



## Introduction

In March 2022, the VA Office of Inspector General (OIG) matched a list of individuals excluded by law from being paid by federal healthcare programs against VA's payroll and human resources (HR) data as of January 2022. The analysis identified four employees banned from working for the Veterans Health Administration (VHA). The OIG initiated this administrative investigation to determine whether VHA had employed any individuals on the exclusion list in violation of federal law and VA policy, and, if so, whether they worked in positions that could compromise patient care and safety.

### **Federal Law Requires That Certain Individuals Be Excluded from Paid Employment by Federal Healthcare Programs**

Under federal law and VA policy, VA's healthcare program funds may not be used to pay individuals who have been excluded from employment in these programs.<sup>10</sup> The Department of Health and Human Services Office of Inspector General (HHS OIG) has been delegated the authority by the Secretary of Health and Human Services to impose paid-employment exclusions based on certain categories of misconduct.<sup>11</sup> These include convictions for Medicare, Medicaid, or state healthcare program fraud; convictions for patient abuse or neglect; controlled substance convictions; or suspension or revocation of a healthcare license by a state licensing authority for reasons bearing on professional competence or financial integrity.<sup>12</sup>

Once an individual has been excluded, the HHS OIG places their identifying information on the List of Excluded Individuals and Entities (LEIE). The LEIE also provides the reason for the exclusion. The list, which is updated monthly, is searchable through the HHS OIG website and is available for download. The HHS OIG recommends that healthcare entities check the LEIE before and after hiring employees and contractors.<sup>13</sup> VA requires VHA to screen candidates against the LEIE before completing the hiring of new employees or approving transfers of existing employees between VHA facilities.<sup>14</sup>

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<sup>10</sup> 42 U.S.C. § 1320a-7; VA Handbook 5005, *Staffing*, part II, chap. 1, sec. B(2)(b), April 15, 2002; VA Handbook 5021/2, *Employee/Management Relations*, part I, chap. 3, para. 5(g), part VI, para. 10(f), June 26, 2003. VA policy permits an excluded individual to be employed on a without-compensation basis or in other employment situations for which there will be no payment to the individual from VHA funds. VA Handbook 5005, part II, chap. 1, sec. para. B(2)(c).

<sup>11</sup> Delegation of Authority to the Inspector General, 53 F.R. 12993-02, 12993 (April 20, 1988).

<sup>12</sup> 42 U.S.C. § 1320a-7(a)-(b); Delegation of Authority to the Inspector General, 53 F.R. 12993-02, 12993 (April 20, 1988).

<sup>13</sup> HHS OIG, *Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs*, at 13–15, May 8, 2013.

<sup>14</sup> Within VA, the hiring process is referred to as an "appointment." See VA Handbook 5005, part II, chap. 1, sec. B(2)(c)-(d).

## **The Administrative Investigation and VHA's Interim Corrective Action**

The OIG matched VHA payroll and HR data for the first pay period of January 2022 to the exclusion list to determine whether VHA made any payments to individuals identified on the LEIE. Specifically, the OIG compared social security numbers from the LEIE with those listed in VA financial and HR databases.<sup>15</sup> OIG staff then interviewed VHA HR, contracting, and compliance staff, as well as direct and higher-level supervisors for the four excluded individuals identified as working for VHA. The administrative investigations team also reviewed emails and documents, including personnel records and state licensure records. In addition, the team analyzed applicable federal laws and VA policies, procedures, and guidance. This investigation did not seek to determine whether VHA has employed any excluded individuals other than those employed during the first pay period of 2022. The investigation was meant to identify deficiencies in processes or oversight at that time, and not to complete a comprehensive historical audit of VHA hiring or to identify additional violations that may have occurred subsequent to January 2022. For more information on the OIG administrative investigation's scope and methodology, see appendix A.

In August 2022, following initial interviews and document reviews, OIG staff alerted VHA to the preliminary finding that VHA had employed four excluded individuals. In response, VHA HR and VHA Office of Integrity and Compliance (OIC) leaders indicated they were planning several corrective actions to address related process failures. These corrective actions included additional training, written guidelines, process redundancies to reduce human error, and other steps, as discussed in the findings that follow. Although these actions appear to address the deficiencies revealed in this investigation, the OIG has included recommendations regarding process improvements and enhanced monitoring to provide a mechanism for OIG follow-up. The recommendations will be closed when sufficient evidence indicates that VHA has made adequate progress on implementation. In addition, because the OIG's data analysis was limited to a particular point in time, the OIG also recommended that VHA conduct a comprehensive audit using social security number-based matching for current employees and, if any excluded employees are identified, conduct an analysis to determine the causes and whether any additional process improvements are warranted.

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<sup>15</sup> For this analysis, the OIG obtained a version of the LEIE that contained social security numbers.

## Finding and Analysis

### **Finding: Due to Errors in Its Screening Processes, VHA Hired and Retained Four Former Nursing Professionals Barred from Paid Employment by Federally Funded Healthcare Programs**

VHA employs more than 370,000 healthcare professionals and support staff. The OIG found that within the first pay period of 2022, VHA employed four individuals—an extremely small percentage of VHA’s staff—who had been excluded from paid employment with federal healthcare programs by the HHS OIG.<sup>16</sup> All four individuals were former nursing professionals who had been excluded years before being hired by VHA and who remained on the LEIE during their VHA employment. Three of these individuals were added to the LEIE because of license revocation or suspension, while another was listed because of a conviction for “program-related crimes.”<sup>17</sup> VHA hired these individuals to perform janitorial or clerical services; none of them worked in roles providing healthcare to patients. Still, the LEIE screening is meant to prevent individuals who have been found unsuited for working in a federally funded healthcare program from having access to medical facilities that are responsible for protecting patients, assets, and information systems.

As explained in the sections that follow, three of the four employees were hired despite their exclusions because their surnames had changed, and VHA staff responsible for pre-hiring screening did not search the employees’ prior names. In addition, an error in an LEIE monitoring computer program prevented their detection during routine oversight performed by the OIC. The fourth employee’s exclusion record was identified prior to hiring, but the regional network HR staff nevertheless completed the hiring action due to a mistaken belief it would be addressed later in a background check process.<sup>18</sup> The OIC also found the same record during routine reviews but failed to notify VISN compliance staff.

### **VHA Conducts LEIE Screening at Hiring and Periodically Thereafter**

Each of VHA’s 18 Veterans Integrated Service Networks (VISNs) has its own procedures and practices for staffing specialists (VISN staffing specialists) performing hiring actions on behalf

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<sup>16</sup> As noted above, the Secretary of Health and Human Services has delegated exclusion authority to the HHS OIG. Delegation of Authority to the Inspector General, 53 F.R. at 12993. An individual who violates their exclusion may be subject to civil monetary penalties, criminal prosecution and other monetary assessments. 42 U.S.C. §§ 1320a-7a(a)(1)(D), 1320a-7b(a)(3). Similarly, a healthcare entity that contracts with a person it knows or should know is excluded can be forced to pay civil monetary penalties if the excluded person provides services payable by a federal healthcare program. 42 U.S.C. § 1320a-7a(a)(6).

<sup>17</sup> This individual was convicted of healthcare fraud—specifically, falsifying in-home services documents.

<sup>18</sup> Within VA, this process is known as the “suitability” process. See VA Directive 0710, *Personnel Security and Suitability Program*, June 4, 2010.

of the medical facilities within their region. Nationwide LEIE policy is published by the VA central office's Human Resources Management Recruitment and Placement Policy Service. Within VHA, the Office of Workforce Management and Consulting (WMC) develops national LEIE guidance.

VA staffing policy requires VHA to screen against the LEIE before hiring a new employee or approving an existing employee's transfer between VHA facilities.<sup>19</sup> The policy directs VISN staffing specialists to search a candidate's name in the online LEIE database. If a name match occurs, the specialist can verify the match by entering the individual's social security number on the page associated with the name. The online database does not permit social security numbers to be viewed, but when the number is entered on the page for a particular individual, the database will confirm whether the social security number is associated with that person. If the specialist verifies the match, the hiring must be terminated.

The HHS OIG recommends that employers search all names ever used by an applicant because the LEIE only includes the individual's name at the time the exclusion was made.<sup>20</sup> Several WMC officials told investigators they would expect a VISN staffing specialist to search both the candidate's current name and any known alternative or prior names. However, for the period under review, there was no VA national policy or other written guidance dictating the number or types of searches to be performed during LEIE screening (other than a general instruction to search by name) or requiring that screening results be documented.<sup>21</sup> The specialist only needed to mark whether they performed LEIE screening in the recruitment computer system or on a screening checklist.

While screening at the time of hiring is an HR function, ongoing compliance monitoring of employees is conducted by the OIC.<sup>22</sup> The OIC screens current VHA employees and contractors against the LEIE on a monthly basis.<sup>23</sup> To accomplish this screening, the OIC created a computer program that compares a version of the LEIE provided by the HHS OIG that contains relevant

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<sup>19</sup> VA Handbook 5005, part II, chap. 1, sec. B(2)(c)-(d).

<sup>20</sup> HHS OIG, *Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs*, at 14.

<sup>21</sup> Some VISNs have their own guidance on LEIE screening, but it is inconsistent. The OIG obtained screening guidance from seven VISNs. Of those seven, only one, VISN 17, provided more detailed instructions than those contained in VA staffing policy, i.e., that a new candidate's name must be searched. It also directed staffing employees to search all names for the candidate as entered into the recruitment system. VISNs 4, 16, 17, 20, and 22 instructed staffing employees to upload a screen capture of LEIE searches into the recruitment system. Guidance from VISNs 6 and 23 did not require that documentation.

<sup>22</sup> VHA Directive 1030 Guidebook, *VHA Integrity and Compliance Program*, Chapter 7, *Compliance Auditing and Monitoring*, parts 4(a)(4), (b)(4), February 8, 2022.

<sup>23</sup> VHA Integrity and Compliance, *Screening Procedures for Government Sanctions Lists, Individual and Entity Exclusions*, part C(2), January 28, 2021. The OIC's executive director told OIG investigators that VHA HR personnel do not perform routine post-hire LEIE screening. For this reason, the OIC began its monthly screening at least five years ago.

social security numbers. The numbers are associated with employee and vendor payments drawn from financial data that VHA processed for the month. The program is designed to flag a potential match when a social security number appears in both VHA payment and LEIE databases. OIC procedures require staff to send information on potential violations to the appropriate VISN integrity and compliance officer for verification and, if necessary, referral to VHA HR.<sup>24</sup>

## HR Staff Did Not Screen Three Candidates’ Prior Surnames, and the OIC Did Not Find Their Exclusions Due to a Monitoring Program Error

Three of the four excluded individuals VHA employed were hired under surnames different from the ones they had when they were added to the LEIE. Table 1 details their positions at VHA, their dates of hiring, their primary job duties, and the reasons for their placement on the LEIE.

**Table 1. Employment and Exclusion Information**

Position at VHA	Month Hired	Primary Job Duties	Reason on LEIE
<b>VISN 16 Information Receptionist, Housekeeping Aide, and Transportation Assistant</b>	September 2020	Directed facility visitors; cleaned patient and examination rooms; processed claims for travel reimbursement	Nursing license revocation
<b>VISN 15 Medical Support Assistant</b>	Temporary hire July 2021, permanent hire July 2022	Requested medical records from community providers; scheduled patient appointments, checked patients into appointments	Conviction for program-related crimes (healthcare fraud)
<b>VISN 4 Housekeeping Aide</b>	November 2021	Cleaned examination rooms and other facility spaces	Nursing license suspension

*Source: Personnel and LEIE records, as well as interviews with VA employees.*

Records indicate that VISN staffing specialists performed LEIE screening for each of these three employees prior to their hiring. However, the searches were performed using the employees’ current surnames—not the surnames under which they were excluded—so the searches did not return the exclusion records. This was despite the prior surnames appearing on documents previously submitted to HR, including declarations for federal employment (a form used to determine a candidate’s qualification for hiring).<sup>25</sup> Records reflect that for two employees, VISN staffing specialists appear to have received documents containing prior names before performing

<sup>24</sup> VHA Integrity and Compliance, *Screening Procedures for Government Sanctions Lists, Individual and Entity Exclusions*, part C(3).

<sup>25</sup> The VISN 15 medical support assistant completed a declaration for federal employment before temporary hiring but did not list any prior names on the relevant portion of the form. However, the employee completed another declaration before the permanent hire that included the name used when excluded.

LEIE screening, but did not use them, and for the other, HR staff learned of the employee's prior name after the LEIE screening but did not conduct additional searches using it.

In late August 2022, the OIG asked leaders in the OIC and VHA HR to provide information about these three individuals and account for the reasons they were employed in paid positions despite their exclusions. The OIC's executive director explained that these three employees were initially hired despite their exclusions because VISN staffing specialists did not screen any names other than those used at the time of hiring. In addition, the OIC did not identify these employees in post-hire monitoring due to an error in its computer screening program. In September 2022, as a result of the OIG's information request, the employee who wrote the script for the computer program reviewed the code and discovered an error that caused it to return a potential match only when both an individual's last name and social security number matched between the databases. The employee informed investigators that the error has since been eliminated so that the program identifies a potential violation based on social security number alone.

The OIC executive director reported that these three employees were provided notices of proposed separation in early September 2022. One employee resigned immediately, and the other two were terminated later that month.

The OIC's executive director also told the OIG investigative team that VHA is considering several corrective actions to address these process failures:

- Instituting training to emphasize the need for VISN staffing specialists to check all prior names against the LEIE during the pre-hiring process
- Using an automated pre-hiring screening procedure that checks the OIC's version of the LEIE containing social security numbers rather than the current process of manually checking names in the online LEIE
- Updating the OIC's LEIE monitoring program to identify employees regardless of name changes or variations
- Developing a nationwide job aid for LEIE screening that would include an instruction to screen all names disclosed in the candidate's declaration for federal employment.

The OIG acknowledges and appreciates the quick response from VHA on the identified issues and will continue to monitor the implementation of these planned actions through the recommendations to this report.

## **HR Staff Discovered the Fourth Candidate’s Exclusion but Did Not Halt the Hiring Process, and the OIC Found the Exclusion Record but Failed to Notify VISN Compliance Staff**

The fourth employee’s personnel file reflects that a VISN staffing specialist found the relevant exclusion record before the employee’s hiring as a housekeeping aide within VISN 8 in June 2021 but did not stop it. The personnel file also noted that VA learned this individual had died in February 2022.<sup>26</sup>

In response to the OIG’s August 2022 information request, the OIC’s executive director indicated that “the [fourth] employee was onboarded and remained onboard due to a process issue between different sections of [HR].” The VISN 8 deputy HR officer told investigators that a VISN staffing specialist located this employee’s exclusion record and entered it into the recruitment file. The staffing specialist was incorrectly advised by a colleague to allow the matter to be addressed in a pending suitability assessment. Once the specialist learned that the employee cleared the background check, VHA completed the employee’s hiring.

In addition to this onboarding error, the OIC had discovered this employee’s exclusion record during routine monitoring following the employee’s hiring. However, the OIC employee tasked with transmitting information on potential matches to VISN integrity and compliance officers indicated that he could not locate emails documenting notifications related to the fourth employee. He concluded that he did not send those notifications.

The OIC executive director reported to investigators that in order to remedy these issues in the future, “the roles and responsibilities are being clarified within the VISN to ensure exclusionary list entries are adjudicated appropriately and aside from the suitability process.” Additionally, the OIC executive director told OIG investigators that she plans to assign two OIC employees to handle LEIE monitoring duties to build in redundancies and avoid oversights. Finally, a WMC employee working in employee relations told investigators that VHA is evaluating ways to centralize VHA HR’s approach to reviewing OIC’s routine monitoring reports. Until that occurs, OIC reports will go to this employee’s team, which will then assign reviews and actions to VISN HR staff.

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<sup>26</sup> This individual was added to the LEIE because of a license revocation. State licensure records indicate the nursing license was revoked due to marijuana use.

## Conclusion

Federal law and VA policy require thorough, accurate LEIE screening.<sup>27</sup> The OIG conducted this administrative investigation to determine whether VHA had employed and paid individuals in violation of federal law and VA policy who had been sanctioned by the HHS OIG and were on the LEIE. The OIG also sought to determine whether any excluded individuals were in positions that risked patient care and safety.

Although the data analysis for the first January 2022 pay period identified only four excluded paid employees in VHA medical facilities, the analysis revealed process deficiencies that VHA has already begun addressing. The proposed corrective actions under consideration by VHA include additional training, written guidelines, process redundancies to reduce human error, and other steps. These actions recognize that medical facilities must protect vulnerable patients and their health information, as well as facility assets, by ensuring employees are properly vetted before and after hiring. VA's planned actions will be monitored by OIG staff, but would appear to make important strides in addressing systems issues and oversight gaps. Moreover, VHA took prompt action to initiate termination of the three remaining employees when it learned about the OIG's preliminary findings, and all three no longer work at VHA. The fourth employee is deceased.

The report's three recommendations help ensure that the OIG can follow up on VHA's planned corrective actions and confirm sufficient progress has been made on implementation. Further, the OIG's recommended audit will permit VHA to comprehensively screen for additional potential LEIE violations and determine the causes and whether any other process improvements are needed.

Although the data-matching identified just four lower-grade employees, the systems issues detected by investigators could affect medical facility staff at all levels. The LEIE screening is meant to prevent individuals who have been found unsuited for working in a federally funded healthcare program from having access to VHA medical facilities. It is hoped that this report bolsters those efforts across VA.

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<sup>27</sup> 42 U.S.C. § 1320a-7; VA Handbook 5005, part II, chap. 1, sec. B(2)(c)-(d); VA Handbook 5021/2, part I, chap. 3, para. 5(g), part VI, para. 10(f).

## Recommendations

1. The chief for the Veterans Health Administration Office of Human Capital Management completes planned revisions of human resources policies and procedures to ensure that excluded individuals are not employed in paid positions using VA healthcare program funds, including requiring screening of candidates' alternative or prior names or social security numbers (if accessible) against the List of Excluded Individuals and Entities prior to hiring.
2. The executive director for the Veterans Health Administration Office of Integrity and Compliance implements planned revisions of policies and procedures for the Office of Integrity and Compliance to ensure it performs accurate List of Excluded Individuals and Entities monitoring, including for individuals with alternative or prior names or using social security numbers (if accessible), and provides timely notification of potential violations to appropriate staff.
3. The executive director for the Veterans Health Administration (VHA) Office of Integrity and Compliance performs a one-time audit of VA employment records using corrected matching practices to determine whether any individuals on the List of Excluded Individuals and Entities are receiving payments using VA healthcare program funds, and, if so, whether additional revisions to policies and procedures of the VHA Office of Integrity and Compliance, the VHA Office of Human Capital Management, or any other element of VA are required to address the causes, including any related screening and/or monitoring process failures.

## VA Comments and OIG Response

The under secretary for health reviewed the draft report and responded by concurring with the three recommendations. The VA comments are published in their entirety as appendix B. The OIG considers all recommendations open at this time. The under secretary's response to recommendation 2 indicates a completion date of January 18, 2023, but the response is insufficient to close the recommendation because it only addresses the programming error that was discovered and corrected in September 2022. The recommendation also seeks implementation of policy and process revisions under consideration by the Office of Integrity and Compliance, as discussed on page 6 of the report. The OIG will continue to monitor all recommendations until sufficient documentation has been received to close them as implemented.

## Appendix A: Scope and Methodology

### Scope

The OIG Office of Special Reviews conducted this administrative investigation from April to November 2022 to determine whether VHA had paid employees who were on the List of Excluded Individuals and Entities (LEIE), and, if so, whether they were in positions involving patient care. That analysis was based on matching data in March 2022 from the LEIE database against data on VA personnel paid. The data-matching was performed by the OIG Office of Data Analytics using the first pay period of January 2022 (the most complete information on file with VA human resources at the time of the match).

### Methodology

The team reviewed applicable laws, regulations, policies, guidance, and procedures. Additionally, investigators collected and reviewed personnel, licensure, and other records concerning the individuals identified in its data analysis, as well as emails, guidance, and other documents obtained from witnesses. OIG investigators interviewed 23 VA witnesses, including the OIC executive director, other OIC current and former staff, VA and VHA human resources leaders and staff, VHA contracting staff, and several direct and higher-level supervisors for the four individuals excluded from paid employment with federally funded healthcare programs.

### Scope Limitation

This administrative investigation sought to verify the results of the OIG's analysis based on data from the first pay period of 2022 and did not examine whether VHA employed excluded individuals other than those identified in the analysis. The investigation was meant to identify deficiencies in processes or oversight at that time. It was not undertaken to comprehensively audit all VHA hiring before or after the first pay period of January 2022.

### Government Standards

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

## Appendix B: VA Management Comments

### Department of Veterans Affairs Memorandum

Date: February 6, 2023

From: Under Secretary for Health (10N)

Subj: OIG Draft Report, Stronger Controls Help Ensure People Barred from Paid Federal Healthcare Jobs Do Not Work for VHA

1. Thank you for the opportunity to review and comment on the draft report regarding the employment of individuals excluded by law from Federal health care programs. The Veterans Health Administration (VHA) is committed to providing world-class health care to Veterans. This includes ensuring VHA employs individuals that are authorized to serve our Veterans.
2. I am pleased to report that after VA Office of Inspector General (OIG) alerted VHA to potential violations, appropriate leadership took action to terminate the employees that were listed on the List of Excluded Individuals and Entities.
3. VHA is committed to hiring high-quality health care professionals. VHA employs over 370,000 health care professionals and although only four individuals excluded from Federal employment were found during the OIG audit, this audit identified opportunities to strengthen our hiring process.
4. VHA concurs with the one recommendation to the Office of Human Capital Management and the two recommendations to the Office of Integrity and Compliance.
5. Comments regarding the contents of this memorandum may be directed to the GAO OIG Accountability Liaison Office.

*The OIG removed point of contact information prior to publication.*

Thank you again for partnering with VHA to ensure our Veterans receive the high-quality healthcare they deserve.

(Original signed by)

Shereef Elnahal, M.D., MBA

Attachment

**Recommendation 1. The chief for the Veterans Health Administration Office of Human Capital Management completes planned revisions of human resources policies and procedures to ensure that excluded individuals are not employed in paid positions using VA healthcare program funds, including requiring screening of candidates' alternative or prior names or social security numbers (if accessible) against the List of Excluded Individuals and Entities prior to hiring.**

**VHA Comments:** Concur. During a national Recruitment and Placement (R&P) Community of Practice call held on October 22, 2022, VHA Human Resource professionals were reminded to screen candidates' alternative or prior names against the List of Excluded Individuals and Entities (LEIE) prior to hiring the individual. The presentation, recording, and transcripts are accessible at any time to the R&P Community of Practice (COP) for review. VA Handbook 5005, addresses the requirement for Human Resource professionals to screen candidates and ensure excluded individuals are not employed using VA health care funds.

Specific procedures related to checking all aliases against the LEIE are best memorialized in the Recruitment and Placement job aid and reiterated on national Human Resource calls. A Job Aid has been drafted for R&P Human Resource professionals reiterating that the standard procedure is to screen candidates' alternative or prior names against the LEIE prior to hiring the individual. All aliases held by the candidate will be collected using in the new biographic questionnaire of the Onboarding Module in USA Staffing. This job aid is pending publication and will be communicated to the R&P Community of Practice. Job aids are available on the VHA HR Hub and the recordings and transcripts from the COP calls are available on the Teams Channel.

**Status:** In progress

**Target Completion Date:** March 2023

**Recommendation 2. The executive director for the Veterans Health Administration Office of Integrity and Compliance implements planned revisions of policies and procedures for the Office of Integrity and Compliance to ensure it performs accurate List of Excluded Individuals and Entities monitoring, including for individuals with alternative or prior names or using social security numbers (if accessible), and provides timely notification of potential violations to appropriate staff.**

**VHA Comments:** Concur. On September 9, 2022, the Office of Integrity and Compliance (OIC) modified VHA's monthly HHS-OIG LEIE monitoring algorithm to not utilize employee names to identify violations but to only match VHA employees against the LEIE by social security number. This ensures that changes to individual names do not impact VHA's ability to identify violations. In addition, OIC modified its reporting of potential matching from reporting to Veterans Integrated Services Networks to reporting directly to the VHA Office of Human Capital Management.

**Status:** Completed

**Completion Date:** January 18, 2023

**Recommendation 3.** The executive director for the Veterans Health Administration (VHA) Office of Integrity and Compliance performs a one-time audit of VA employment records using corrected matching practices to determine whether any individuals on the List of Excluded Individuals and Entities are receiving payments using VA healthcare program funds, and, if so, whether additional revisions to policies and procedures of the VHA Office of Integrity and Compliance, the VHA Office of Human Capital Management, or any other element of VA are required to address the causes, including any related screening and/or monitoring process failures.

**VHA Comments:** Concur. OIC will conduct a one-time audit of VA employment records using the LEIE process improvements outlined in Recommendation 2. The audit will determine the effectiveness of VHA monitoring efforts and if the improvements have adequately addressed the deficiencies identified in the report.

**Status:** In progress

**Target Completion Date:** January 2024

## OIG Contact and Staff Acknowledgments

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