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April 2024

MILITARY HEALTH CARE

DOD Should Improve Its Process for Clinical Adverse Actions against Providers

GAO-24-106107

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GAO Highlights

Highlights of GAO-24-106107, a report to congressional committees

Why GAO Did This Study

Like all health care delivery settings, concerns may arise about the quality and safety of care delivered by individual health care providers in the Department of Defense's (DOD) military medical treatment facilities. DHA and its medical facilities share responsibility for investigating concerns and determining whether to take clinical adverse action against providers. DHA is also responsible for reporting any actions taken against providers to regulatory bodies for use among the health care industry.

Senate Report 117-39 accompanying the National Defense Authorization Act for Fiscal Year 2022 includes a provision for GAO to review DOD's clinical adverse action process. GAO's review examines adherence to DHA clinical adverse action requirements at four selected facilities and at the DHA-level. GAO reviewed documentation of 55 clinical adverse action cases initiated between October 2019 and September 2022 by four facilities, selected to obtain variation in location and the number of clinical adverse actions conducted. Additionally, GAO reviewed DHA procedures and interviewed DHA officials and facility staff.

What GAO Recommends

GAO is making six recommendations, including for DHA to improve its monitoring approach and to establish timeliness requirements for steps in the clinical adverse action process. DOD concurred with all six recommendations.

View GAO-24-106107. For more information, contact Sharon M. Silas at (202) 512-7114 or silass@gao.gov.

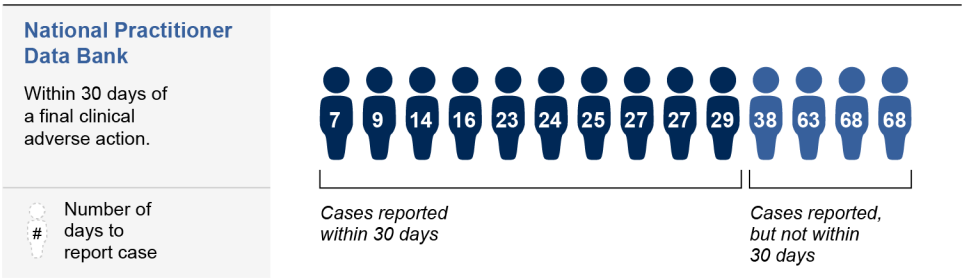
What GAO Found

The Defense Health Agency (DHA) uses its clinical adverse action process to investigate concerns about a health care provider's quality of care, and if warranted, to take action to limit or prohibit the care a provider is allowed to deliver. GAO reviewed 55 clinical adverse action cases at four selected military medical treatment facilities and found that they did not always adhere to certain requirements. For example, in more than one-third of the cases, the facilities did not adhere to the DHA requirement to establish a deadline for the investigation of a provider. GAO found that, while DHA monitors facilities' adherence by conducting an audit of each case and by monitoring the process, DHA's monitoring approach does not include information needed to assess adherence to many of the facility-level steps of the clinical adverse action process.

GAO also found that DHA did not always report providers within required time frames to the National Practitioner Data Bank. This database is an electronic repository administered by the federal government that is used by hospitals and others across the health care industry to obtain information on providers with histories of substandard care or misconduct. GAO found that while DHA reported all 14 of the providers from the four facilities in GAO's review who received a final clinical adverse action, DHA did not meet the 30-day reporting requirement for four providers.

Defense Health Agency Adherence to Requirements for Reporting 14 Final Clinical Adverse Actions to the National Practitioner Data Bank

Reporting for 14 final clinical adverse action cases initiated between October 2019 and September 2022



Source: GAO analysis of 14 cases from four facilities; GAO (illustrations). | GAO-24-106107

DHA's approach to monitoring its clinical adverse action process does not include information needed to assess adherence to certain requirements, such as whether DHA reports providers within required time frames. Further, DHA has not established timeliness requirements for many of the DHA-level steps in the process, such as legal reviews and appeal panel meetings. GAO found it took DHA almost one year on average to complete its steps for 14 cases that resulted in final clinical adverse actions. While DHA's procedures state that the purpose of the clinical adverse action process is to ensure timely resolution of issues and reporting, GAO found that DHA does not sufficiently monitor its timeliness. Such deficiencies could present risks to the quality and safety of care that military service members and their families receive in DOD facilities.

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Abbreviations

DHA	Defense Health Agency
DOD	Department of Defense
MTF	military medical treatment facility
NPDB	National Practitioner Data Bank

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April 11, 2024

The Honorable Jack Reed
Chairman
The Honorable Roger Wicker
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Mike Rogers
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

The Defense Health Agency (DHA) supports the delivery of health care to military service members and their families. This health care is provided at military medical treatment facilities (MTF), which include 45 military hospitals and hundreds of health and dental clinics across the world. These health care services are delivered by nearly 100,000 health care providers, such as physicians, dentists, and nurses, and range from routine examinations to complex surgical procedures.

As in all health care delivery settings, concerns may arise about the quality and safety of care delivered by an individual health care provider. DHA and the MTFs share responsibility for investigating such concerns and determining whether to take clinical adverse action against a provider. A clinical adverse action limits or prohibits altogether the care a provider can deliver at MTFs. When DHA decides to take a final clinical adverse action, the agency is also required to report the provider to the National Practitioner Data Bank (NPDB). The NPDB is used by hospitals and other entities across the health care industry, including MTFs, to obtain information on providers with histories of substandard care or misconduct.[1]

[1]The NPDB is an electronic repository administered by the U.S. Department of Health and Human Services. The NPDB collects and releases information on medical malpractice payments and certain adverse actions, such as discipline by a state licensing board, related to health care providers.

Congress and DOD have taken steps intended to strengthen accountability, transparency, and standardization in the Military Health System. Congress mandated that the Director of DHA be responsible for the administration of each MTF no later than September 30, 2021.[2] While some aspects of the MTFs' transition from administration by the three military departments (Air Force, Army, and Navy) to administration by DHA continued through 2022, DHA issued standardized clinical adverse action procedures that took effect across the system on October 1, 2019.

Senate Report 117-39 accompanying the National Defense Authorization Act for Fiscal Year 2022 includes a provision for GAO to assess DHA's implementation and oversight of clinical quality management procedures, including adverse action procedures. Our review examined

1. selected MTFs' adherence to DHA requirements for taking clinical adverse actions against health care providers and DHA's monitoring of MTFs' adherence; and
2. DHA's adherence to and monitoring of its own requirements for taking clinical adverse actions against providers, and DOD's oversight of DHA.

To examine MTFs' and DHA's adherence to DHA requirements for taking clinical adverse actions against providers and related monitoring and oversight, we reviewed DHA procedures and interviewed relevant DHA and DOD officials. We selected four MTFs that varied based on factors such as geographic location and military departments. We reviewed the documentation of 55 clinical adverse action cases that were initiated by each of the four selected MTFs between October 2019 and September 2022. We assessed the 55 cases for adherence to requirements in the DHA procedures manual.[3] We identified the 55 cases from the four MTFs by reviewing datasets from DHA and the military departments.[4] The findings from these MTFs cannot be generalized to all MTFs. We also interviewed relevant staff from each of the four MTFs. We evaluated

[2]See 10 U.S.C. § 1073c.

[3]See Department of Defense, Defense Health Agency, *Defense Health Agency Procedures Manual 6025.13: Clinical Quality Management in the Military Health System,* "Volume 3: Healthcare Risk Management" (Falls Church, Va.: Aug. 29, 2019).

[4]We identified an additional 15 cases that were missing from the datasets. We did not review the 15 cases that were missing from the datasets for adherence. However, the missing cases were part of our determination that the datasets were not reliable enough to report aggregate information about clinical adverse action cases across all MTFs in our report.

DHA's monitoring and DOD's oversight against federal internal control standards related to control activities and information and communication.[5] See appendix I for additional details on our methodology, including how we selected MTFs and the scope of clinical adverse action cases in our review.

We conducted this performance audit from June 2022 to April 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Organizational Structure

The DOD Office of the Assistant Secretary of Defense for Health Affairs is responsible for developing DOD's clinical quality management policy, including policy on clinical adverse actions, and for overseeing DHA.[6] In July 2023, DOD issued its revised instruction, which broadly establishes clinical adverse action policy and authorizes DHA to issue further guidance and procedures for all MTFs, among other things.[7] Prior to the issuance of the revised DOD policy, DOD temporarily granted this authorization to DHA via an April 2019 memorandum. Requirements for clinical adverse actions specified in DHA's procedures manual took effect October 1, 2019.[8]

[5]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 2014). Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved.

[6]DHA's clinical quality management program is intended to ensure the quality and safety of health care delivered at MTFs by health care providers and includes six components: credentialing and privileging, health care risk management, patient safety, accreditation and compliance, clinical measurement, and clinical quality improvement. Clinical adverse action procedures are part of the health care risk management component. In December 2020, we issued a report describing DHA's processes for preventing and responding to quality and safety concerns about individual health care providers at MTFs. See GAO, *Military Health Care: Defense Health Agency Procedures for Responding to Provider Quality and Safety Concerns*, GAO-21-160R (Washington, D.C.: Dec. 1, 2020).

[7]See Department of Defense, *DOD Instruction 6025.13: Medical Quality Assurance and Clinical Quality Management in the Military Health System*, (Jul. 26, 2023).

[8]DHA Procedures Manual 6025.13.

While DHA has been primarily responsible for clinical adverse actions and associated reporting since October 1, 2019, the military departments (Air Force, Army, and Navy) each provided administrative support to DHA between October 1, 2019 and October 1, 2022. Specifically, Army implemented DHA's headquarters-level clinical adverse action procedures until March 2021, Air Force until October 2021, and Navy until October 2022.

During the respective transitions, Air Force and Navy maintained responsibility for clinical adverse action cases that had already been initiated while DHA became responsible for any clinical adverse action cases initiated after those dates. Conversely, DHA generally assumed immediate responsibility for all Army cases at the time of the transition, with some exceptions for cases that were nearly complete. With the completion of the Navy transition in October 2022, DHA is now responsible for administration and monitoring of the clinical adverse action process among all MTFs.

DHA Procedures for Clinical Adverse Actions

DHA's clinical adverse action procedures include actions against privileged providers and non-privileged providers.[9] Privileged providers are those who possess appropriate credentials and are granted specific clinical health care privileges, such as physicians, dentists, psychologists, and physicians' assistants. Non-privileged providers are those that possess a license, certification, or registration and are only permitted to engage in the delivery of health care as defined in their granted scope of practice, such as registered nurses.

Clinical adverse actions include actions that limit the care a provider can deliver at an MTF or prohibit them from delivering care at the MTF altogether, such as through the restriction, reduction, or revocation of a provider's clinical privileges or scope of practice.[10] The process also may

[9]DHA defines privileges as permission to provide medical and other patient care services in the MTF, within defined limits, based on the individual's education, professional license, experience, competence, ability, health, and judgment. DHA procedures for clinical adverse actions are generally the same for privileged and non-privileged providers, with a few exceptions.

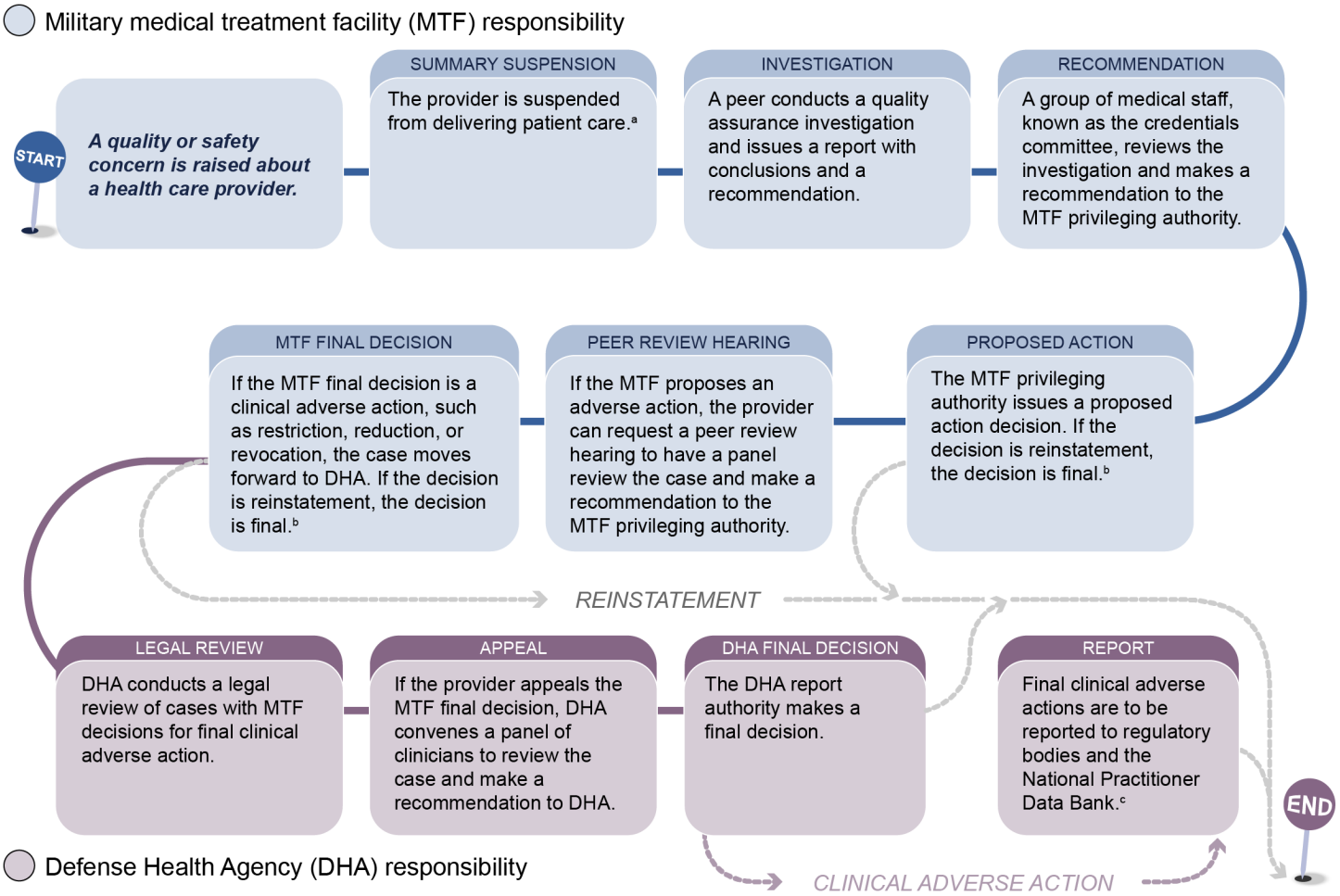
[10]DHA defines restriction as a temporary or permanent limit on a provider's privileges or scope of practice that requires supervision by an appointed clinical peer. Reduction is the permanent removal of a portion of a provider's privileges or scope of practice. Revocation is the permanent removal of all a provider's privileges or scope of practice.

result in a provider being returned to practice, referred to as reinstatement, with or without a temporary enhanced monitoring plan.

DHA and the MTFs share responsibility for investigating provider quality or safety concerns and determining whether to take clinical adverse action against a provider. The MTF initiates the process by temporarily suspending the provider from delivering patient care, in part or in full, referred to as summary suspension. The MTF then conducts several steps, including an investigation of the provider's care, before issuing a decision.

If the decision is to take a clinical adverse action, then the case goes to DHA for additional reviews and a final decision. The clinical adverse action process also includes multiple opportunities for the provider to submit statements and corrections and appeal decisions, known as due process. DHA's procedures state that the purpose of the clinical adverse action process is to ensure timely resolution of issues and reporting. The DHA procedures include timeliness requirements for many of the steps. See figure 1 for an overview of the MTF and DHA responsibilities for clinical adverse action procedures. For more detailed information about requirements in the DHA procedures manual, see appendix II.

Figure 1: Defense Health Agency (DHA) Clinical Adverse Action Procedures



Source: GAO summary of Defense Health Agency procedures; GAO (illustrations). | GAO-24-106107

Notes: DHA requires legal reviews of many of the MTF-level steps, including the summary suspension letter, the investigation report, and the MTF privileging authority's decisions.

[a]The provider is placed in summary suspension, the temporary removal of all or a portion of a health care provider's privileges or scope of practice. Summary suspensions continue until the clinical adverse action process is complete. DHA requires that summary suspensions that exceed 30 calendar days must be reported to the National Practitioner Data Bank and the states of licensure for privileged providers such as physicians and physicians' assistants. Summary suspensions of non-privileged providers, such as registered nurses, do not need to be reported.

[b]Clinical adverse actions include actions that limit the care a provider can deliver at an MTF or that prohibit them from delivering care at the MTF altogether, such as the restriction, reduction, or revocation of a provider's permission to deliver care. The MTF privileging authority also may decide to reinstate providers with or without a temporary period of performance monitoring.

[c]DHA, or its designated official, is responsible for reporting final clinical adverse actions to the National Practitioner Data bank, as well as any states where the provider holds a medical license.

DHA Reporting Requirements

At two points in the clinical adverse action process, DHA is required to report providers to the NPDB and to any state licensing boards in which the provider holds a medical license:[11]

- **Summary suspension.** DHA must report privileged providers who are summarily suspended for more than 30 days as part of the clinical adverse action process.[12] This reporting requirement does not apply to non-privileged providers, such as registered nurses. Per DHA's guidance, this requirement was implemented as an effort to strengthen accountability, standardization, and transparency, and to more closely comply with the NPDB regulations.[13]

  Additionally, if a provider was reported for summary suspension exceeding 30 days and was ultimately reinstated at the end of the clinical adverse action process, DHA must submit a revision to the original report, known as a revision-to-action report.

- **Final adverse action.** DHA also must report all providers against whom the DHA report authority takes a final clinical adverse action.[14] This requirement applies to both privileged and non-privileged providers, as appropriate.

DHA's procedures require DHA to submit these reports to the NPDB and state licensing boards within 30 days of the action becoming reportable. That is, DHA must submit reports: within 30 days of summary suspension exceeding 30 days for privileged providers, within 30 days of

[11]The DHA procedures manual also states that providers must be reported to any other applicable certifying and regulatory agencies. However, DHA officials told us that such reporting is no longer applicable and this requirement will be revised in future versions of the manual. We did not summarize this requirement or assess adherence to it in this report.

[12]This requirement was specified in DHA's August 2019 health care risk management policy, but was not implemented until February 2020. Prior to the implementation of this requirement in February 2020, DOD did not report summary suspensions until a final adverse action was completed, in accordance with a memorandum of understanding with the Department of Health and Human Services. Additionally, prior to the implementation of the DHA policy, MTFs could place providers' privileges in abeyance—which is not a reportable adverse privileging action—instead of summary suspension; however, abeyance is no longer an action in DHA's clinical adverse action procedures.

[13]See 45 C.F.R. § 60.12(a)(i) (requiring health care entities to report any professional review action that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days).

[14]For the purposes of our report, final adverse actions include adverse action decisions and appeal decisions.

reinstatement for privileged providers who were already reported for summary suspension, and within 30 days of the DHA report authority taking a final clinical adverse action. Conducting such reporting enables other health care entities—including other MTFs—to become aware of concerns about the quality and safety of the provider's care that warranted investigation or resulted in clinical adverse action.

Selected MTFs Generally Adhered to Most Clinical Adverse Action Requirements; Nonadherence Reflects Gaps in DHA Monitoring

Selected MTFs Generally Adhered to Most, but Not All, Requirements

We found that the four selected MTFs generally adhered to most, but not all, of the DHA requirements for the 55 clinical adverse action cases that we reviewed.[15] For 54 of the 63 requirements we analyzed, we found the requirement to be met in more than half of the 55 cases we reviewed. For example, in 91 percent of the 55 cases, the MTF credentials committees made clinical adverse action decisions within 10 days of the committee meetings, in line with the DHA requirement. Additionally, in 96 percent of the cases we reviewed, the MTF quality assurance investigation report included required information, such as relevant facts and conclusions related to the allegations against the provider.

However, we found that MTFs less often adhered to requirements related to (1) meeting various timeliness requirements and (2) notifying other facilities of a provider's summary suspension.

DHA Timeliness Requirements

We found that selected MTFs less often adhered to various DHA timeliness requirements for certain steps in the clinical adverse action

[15]We reviewed 55 clinical adverse action cases that were initiated by the four selected MTFs between October 1, 2019 and September 30, 2022, and completed by December 31, 2022. The majority of the cases—about 73 percent—resulted in reinstating the provider. Of the 40 cases that resulted in reinstatement, 30 providers were reinstated with temporary monitoring requirements. The remaining 15 cases resulted in an MTF privileging authority final decision for clinical adverse action against the provider (reduction, restriction, or revocation).

process, including (1) quality assurance investigation reports, (2) peer review hearing records, and (3) MTF privileging authority decisions (see table 1). Delays in each of these steps contributed to lengthier overall duration of the cases and less timely decisions on clinical adverse actions at the MTF level, both of which are inconsistent with DHA's stated goal for clinical adverse action procedures of resolving quality and safety issues in a timely manner. Such delays could affect MTFs taking timely adverse action against providers who are a risk to patient safety or, conversely, keep providers out of practice for longer than necessary in cases of reinstatement.

Table 1: Four MTFs' Adherence to Selected DHA Timeliness Requirements for Clinical Adverse Action Cases

DHA Requirement for Military Medical Treatment Facilities (MTF) (Number of cases analyzed)	Rate of MTF adherence to the requirement[a]	Average time MTFs took to complete the requirement	Median time MTFs took to complete the requirement	Range in time MTFs took to complete the requirement
The MTFs should establish a deadline for completing the quality assurance investigation report (55 cases)	58.2%	Not applicable	Not applicable	Not applicable
The MTF should provide the peer review hearing record to the provider within 30 days of the meeting end date. (13 cases)[b]	61.5%	37 days	27 days	12 to 93 days
The MTF privileging authority has 10 days to make a proposed decision (53 cases)[c]	62.3%	14 days	2 days	0 to 70 days
The MTF privileging authority has 10 days to make a final decision. (13 cases)[d]	53.8%	22 days	8 days	0 to 109 days

Source: GAO analysis of Defense Health Agency (DHA) documentation. I GAO-24-106107

Notes:

[a]Total cases for each requirement differ because some cases do not go through certain steps of the clinical adverse action process.

[b]The DHA manual says the record should be completed within 30 days to the extent practicable. The transcripts of the hearing were completed in a timely manner for all 14 cases we reviewed and thus did not contribute to delays. The total of 13 cases includes cases in which a peer review hearing was held, excluding a case in which the date the provider received the peer review hearing record was unclear.

[c]The MTF privileging authority—typically the MTF Director or Commander— has 10 days from the date of the credentialing committee written recommendation to make their proposed decision. The total equals 53 cases rather than 55 because we could not assess adherence for two cases: in one case, the date of the proposed decision was unclear; in the other case, a credentials committee meeting was not held.

[d]The MTF privileging authority has 10 days from the date the provider submits a response to the peer review hearing record (or otherwise fails to do so within 10 days of receiving the record) to make their final decision. The DHA manual states that the privileging authority's decision is to occur after legal review; however, these reviews were not always documented by the MTFs and thus were not

factored into our assessment of timeliness. The total of 13 cases includes cases in which the MTF held a peer review hearing and the privileging authority issued a final decision in response to the hearing recommendation; we excluded a case in which it was unclear what date the provider received the peer review hearing record.

Timeliness of quality assurance investigation reports. We found that in 23 of 55 cases, the selected MTFs did not establish deadlines for investigators to review each clinical adverse action case as required by the DHA manual.[16]

MTF staff explained that investigations into allegations against providers can be time-consuming, and therefore, it can be difficult for investigators to meet deadlines. Investigations may require many interviews with other MTF providers and staff, as well as extensive medical record reviews.

Timeliness of peer review hearing records. We found that of the 14 cases in our review that involved a peer review hearing, five did not meet the requirement to submit a copy of the peer review hearing record to the provider within 30 days of the hearing end date.[17] Four of the five cases in which the provider did not receive a copy of the peer review hearing record within 30 days were from one MTF in our review. Of the four cases that did not meet this requirement at this one MTF, providers received the records from 47 to 93 days following the hearing.

Timeliness of privileging authority decisions. We found that both the proposed and final privileging authority decisions often exceeded the timeliness requirement among cases from the four selected MTFs. MTF privileging authorities are required to make decisions within the following time frames:

- proposed decisions for clinical adverse actions or reinstatement must be within 10 days of the written credentials committee recommendation and

[16]For the 23 cases in which the MTF did not establish a deadline, the length of the investigations ranged from 4 days to 119 days, with an average of 28 days. In the 32 cases in which MTFs did establish a deadline, the deadline ranged from 2 to 30 days from the date of the letter appointing an investigator, and the investigators took an average of 24 days to review a case. In these 32 cases, we found that the investigators met the deadlines in approximately one-third of cases.

[17]The transcripts of the hearings were completed in a timely manner for all 14 cases we reviewed and thus did not contribute to delays. We could not assess adherence to this requirement for one case because DHA and the MTF were unable to provide documentation indicating when the provider received the panel record.

- final decisions for clinical adverse actions or reinstatement must be within 10 days of the date a provider sent a response to the peer review hearing report.[18]

However, in the 55 cases we reviewed, the selected MTFs' privileging authorities made their written proposed decisions an average of about 14 days after the credentials committee recommendations, exceeding the 10-day timeliness requirement. Specifically,

- one of the four MTFs generally met the requirement with an average of about 4 days from the committee's recommendation to the privileging authority's proposed decision.
- the other three MTFs often exceeded the requirement, with an average of about 25 days.

Additionally, for 13 cases involving a peer review hearing, the selected MTFs' privileging authorities made their final decisions an average of about 22 days after receipt of the peer review report and provider response, which exceeded the 10-day requirement.[19]

Staff from one MTF said these delays were more common at the beginning stages of the transition to DHA's procedures when they were experiencing more frequent staff turnover and had a backlog of cases.

DHA Requirements to Notify Other Facilities

When a provider is summarily suspended, the DHA manual requires MTFs to notify any other military or civilian facility where that provider is practicing. However, staff from only one of the selected MTFs said they would send such notification outside of the Military Health System. This MTF employed three providers practicing at non-DOD facilities at the time of their investigation and the MTF provided documentation of such notification for two of these providers. Staff from the other three MTFs said that they do not provide such notification because they would have no knowledge of a provider's outside, non-DOD employment and thus presumed notifying outside facilities was the provider's responsibility. When we asked DHA officials about this requirement, officials confirmed

[18]The DHA manual states that the privileging authority's decision will occur after legal review; however, these reviews were not always documented by the MTF and thus were not factored into our assessment of timeliness.

[19]MTFs also made final decisions for seven cases resulting in adverse actions in which the providers did not request peer review hearings. DHA does not have a timeliness requirement for this scenario.

that information about a provider's outside employment is available at the MTF level.[20]

DHA officials acknowledged the importance of MTFs sending the required notifications so staff at other facilities could use this information to determine whether they needed to conduct their own reviews or take corrective action. If MTFs do not submit the required notification, then other facilities where the provider practices may not have timely information related to the quality and safety of the provider's care, risking patient safety at other health care facilities.

[20]DHA officials said that all military and civilian providers, except for contractors, should obtain MTF privileging authority approval to practice at an outside facility, known as off-duty employment; documentation of the approval is maintained at the MTF. DHA officials also said that providers are required to disclose their current and past appointments in the credentials database, which MTF staff can access.

Selected MTFs' Nonadherence to Clinical Adverse Action Requirements Reflects Gaps in DHA Monitoring

We found that DHA monitors MTF adherence to clinical adverse action procedures, as required by its procedures manual, in two ways: audits of individual clinical adverse action cases and ongoing monitoring reports of these cases. (See sidebar.) However, we identified gaps in DHA's monitoring that likely contributed to the MTFs' nonadherence to certain requirements that we observed, as these gaps limit DHA's ability to identify and address nonadherence. Specifically, DHA's audits and monitoring reports do not include information needed to assess adherence to certain requirements.

DHA monitoring reports do not include data fields for most of the steps of the clinical adverse action process that occur at the MTF level. For example, the reports do not capture the dates or outcomes of the quality assurance investigations, credentials committee recommendations, privileging authority proposed decisions, or peer review hearings. Additionally, DHA's audit checklist and monitoring report do not include information about whether MTFs notified other entities of a summary suspension, a requirement to which we found the selected MTFs did not always adhere. DHA officials acknowledged that including such information in future monitoring would be helpful.

Without MTF-level data, DHA is limited in its ability to monitor the MTFs' adherence to timeliness requirements or other key steps in the clinical adverse action process. Additionally, without monitoring key requirements—such as through its audit tool or ongoing monitoring reports—DHA may miss opportunities to identify procedures that MTFs are struggling to implement or are failing to adhere to, which would hinder its ability to take action to improve procedures or adherence.

Defense Health Agency (DHA) Audits and Monitoring Reports

After the military medical treatment facility (MTF) privileging authority's final decision, DHA conducts audits of every completed clinical adverse action case using a standardized checklist that includes many of the requirements in the DHA procedures manual. DHA officials said the overarching objective of the audits is to ensure each case file is complete and compiled in a timely fashion, and that each provider received due process throughout the clinical adverse action process.

The DHA audits identified instances of nonadherence such as missing documentation of privileging authority decisions and instances of an MTF not placing a provider into summary suspension, as required.

Additionally, DHA conducts ongoing monitoring of MTF clinical adverse action cases by generating reports from the data in its records management system. DHA's ongoing monitoring reports provide information about the number of active and completed clinical adverse action cases from across the MTFs, their status, and the dates that some steps in the clinical adverse action process were completed.

Source: GAO summary of DHA process. | GAO-24-106107

Unclear DHA Requirements Sometimes Contributed to MTF Non-Adherence

We also identified DHA requirements that were unclear or lacked specificity, which may have contributed to instances of nonadherence in clinical adverse action cases from the four selected MTFs. Specifically, we found that the DHA manual is unclear regarding requirements for summarily suspending providers and lacks specificity regarding implementing and documenting privileging authority final decisions.

DHA requirement for MTFs to summarily suspend providers is unclear. One of the four selected MTFs did not always summarily suspend providers from patient care at the initiation of the clinical adverse action process, as required. Specifically, we identified four out of 15

cases from this MTF that did not adhere to the requirement. The MTF staff attributed this nonadherence to the DHA manual, which states that MTFs "may" summarily suspend providers during the adverse action process, rather than that they must summarily suspend such providers.

DHA officials acknowledged that the wording in the summary suspension section of the procedures manual needs to be revised to clarify that it is always required at the initiation of the clinical adverse action process. As of December 2023, DHA officials were working on revisions to the procedures in the DHA manual related to summary suspension but did not have a planned issuance date for the changes. Staff from the MTF that did not always meet this requirement told us DHA had since clarified the requirement through a meeting.

The purpose of summary suspension requirements is to ensure patient safety. Without clear procedures, MTFs may fail to summarily suspend providers, which could result in providers who are potentially incompetent or involved in misconduct continuing to provide patient care, risking the quality and safety of such care.

DHA requirements for documenting MTF decisions are unclear. While the DHA manual states that the MTF privileging authority's decision is effective immediately, we could not assess selected MTFs' adherence to this requirement because the DHA procedures manual is not specific about how MTFs should document that the action has been taken. The procedures manual requires that the MTF privileging authority's decision be documented in Military Health System's risk management database, but does not specify when such documentation should occur. DHA officials told us that they do not document the date of decision until the DHA report authority makes their final clinical adverse action decision, which occurs later in the process. DHA officials said that modification of the provider's privileges or scope of practice should be documented by the credentials manager in the credentialing and privileging database; however, this documentation requirement is not specified in the procedures manual.

In the absence of a DHA requirement to document the MTF privileging authority's decision, DHA and the selected MTFs could not provide evidence that the MTFs' decisions for clinical adverse actions were effective immediately. In our analysis of the documentation, we observed delays between the dates the MTF privileging authorities' decisions were effective and the dates they were documented.

Without clear and specific requirements for documenting adverse actions at the time that the privileging authority's decision is considered effective, there is a risk that staff who rely on such information to make informed decisions may lack awareness of the decision and the provider's practicing or privileging status. As a result, a provider could be allowed to provide patient care or conduct procedures at the MTF, or other MTFs, despite the MTF privileging authority's determination that it was not safe to do so, risking patient safety. Alternatively, a provider could remain in summary suspension for an extended period of time instead of the action, such as returning to practice with reduced privileges, being taken. Such delays could be damaging to the provider's professional reputation and ability to maintain clinical competency.

DHA Did Not Always Adhere to Reporting Requirements; Gaps Remain in DHA Monitoring and DOD Oversight

DHA Did Not Always Adhere to Its Own Reporting Requirements for Clinical Adverse Actions

Our analysis of 55 cases from four selected MTFs found that although DHA adhered to many of its clinical adverse action requirements, it did not always adhere to its clinical adverse action reporting requirements. For example, DHA adhered to its requirement to conduct a legal review for all 15 cases that resulted in a clinical adverse action against a provider. Additionally, DHA facilitated its clinical reviews for all four providers who appealed the MTF privileging authority decision, as required by DHA procedures.

However, DHA did not always adhere to its own requirements for reporting privileged providers to the NPDB and state licensing boards.[21] Specifically, DHA did not always report within the required time frames (1) privileged providers to the NPDB and state licensing boards when

[21]Due to the transition of MTF clinical adverse action cases from the military departments to DHA at various points between October 2019 and October 2022, the military departments were responsible for reporting providers in accordance with DHA procedures for some of the cases in our review. Because DHA ultimately has the authority and responsibility for implementation of the procedures, we generally refer to DHA in this report. However, we provide additional details about the entities responsible for specific cases.

providers' summary suspensions exceeded 30 days or (2) providers with final clinical adverse actions to the NPDB and state licensing boards.[22]

Reporting Summary Suspensions

DHA and the military departments reported 15 of 16 privileged providers whose summary suspensions exceeded 30 days to the NPDB and state licensing boards, as required.[23] However, of the 15 reported, DHA did not report six within the required time frame.[24]

For the six cases that DHA and the military departments did not report in a timely manner, the time elapsed from the date the summary suspensions became reportable to the dates the summary suspensions were reported to the NPDB and state licensing boards ranged from 37 days to 250 days. Additionally, DHA did not report one provider, as required. Although the provider was summarily suspended for 35 days, DHA officials told us they did not report this provider because MTF staff told them there was a verbal agreement to reinstate the provider in less than 30 days, while the official documentation was pending.

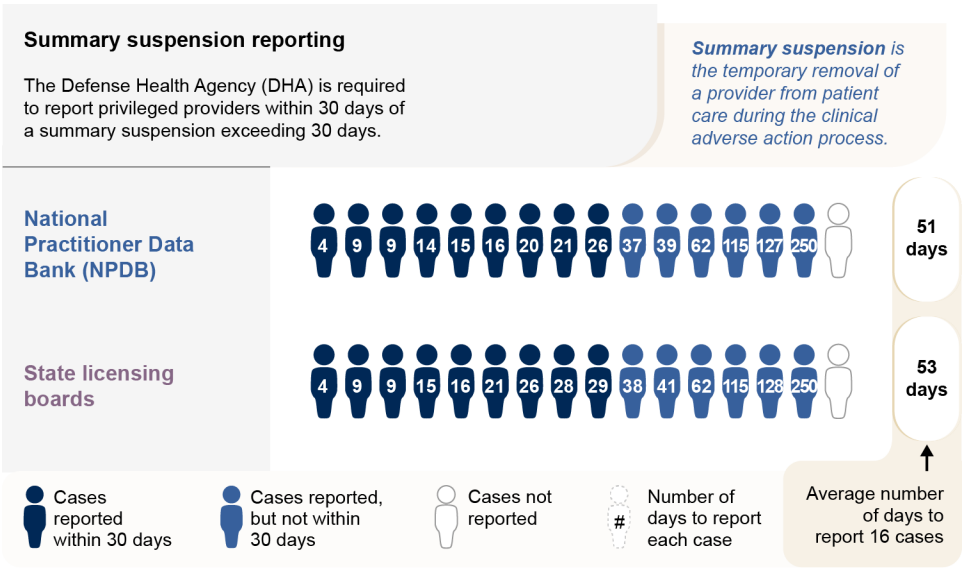
DHA officials told us that some of the nonadherence to its requirements for summary suspension reporting was due to challenges associated with the transition of responsibility of MTF administration from the military services to DHA, such as staffing levels, standardizing processes, and learning curves. Untimely summary suspension reporting does not fulfill the purpose of the requirement to alert others to potential concerns to ensure patient safety (see fig. 2).

[22]DHA is also required to report providers to the NPDB for other situations. For example, criminal convictions against healthcare providers that could adversely affect the delivery of healthcare are subject to review for potential reporting to the NPDB or state(s) of licensure. These situations are beyond the scope of our review.

[23]Of the 55 cases we reviewed, there were 16 privileged providers whose summary suspensions exceeded 30 days. We determined DHA adhered to state board requirements if DHA and the military departments notified one or more state boards within 30 days. Identifying all states where a provider holds licenses was not within the scope of our review, so it is possible that additional states where a provider was licensed were not notified or were not notified in a timely manner.

[24]Because the time frame for our case reviews spanned the transition of MTF administration and management from the military departments to DHA, the military departments were responsible for reporting seven of the 16 summary suspension cases in our review. Of the six cases for which summary suspensions were not reported in a timely manner, DHA and Army were each responsible for reporting three. Air Force and Navy were each responsible for reporting one case in our review, and both were reported in a timely manner.

Figure 2: DHA and Military Department Adherence to Requirements for Reporting 16 Summary Suspension Cases from Four MTFs



Source: GAO analysis of 16 cases from four military medical treatment facilities (MTF); GAO (illustrations). | GAO-24-106107

Notes: Among the 55 clinical adverse action cases initiated between October 2019 and September 2022 by four MTFs, we identified 16 privileged providers from four selected MTFs with a summary suspension longer than 30 days. DHA is required to report providers to the NPDB and state licensing boards within 30 days of the date the summary suspension becomes reportable—i.e., the date it exceeds 30 days. The military departments were responsible for reporting seven of the 16 summary suspensions in our review. Of the six cases for which summary suspensions were not reported in a timely manner, DHA and Army were each responsible for reporting three. Air Force and Navy were each responsible for reporting one case in our review, and both were reported in a timely manner.

Providers can have licenses in more than one state and thus DHA would need to make multiple state licensing board reports. Identifying all states where a provider holds licenses was outside the scope of our review. Therefore, in assessing adherence, we gave credit if DHA notified one or more state licensing boards within 30 days, but it is possible that additional states where a provider was licensed were not notified or were not notified in a timely manner.

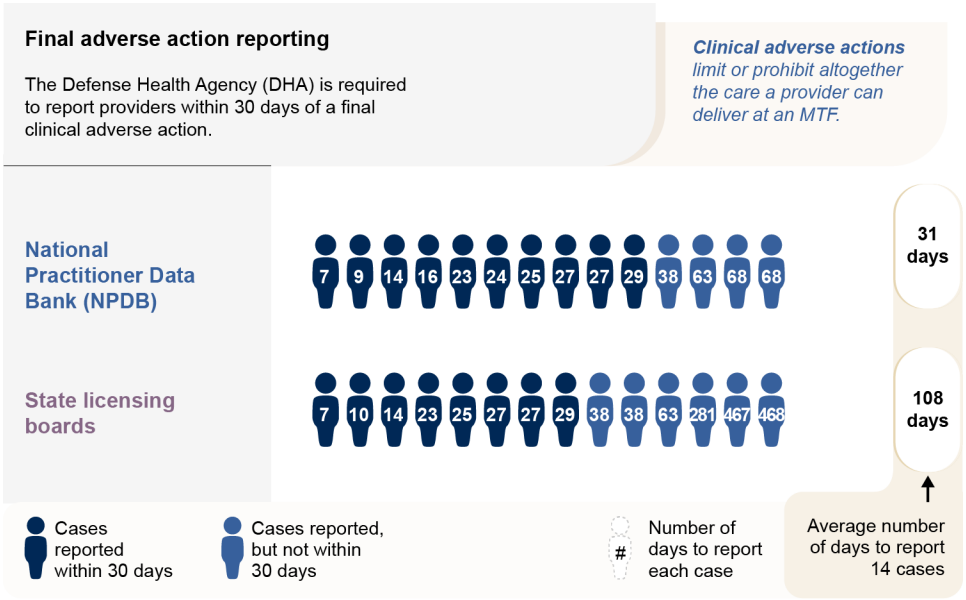
Similarly, DHA met the requirement to report to the NPDB for the 10 cases from our selected MTFs that resulted in final decisions for reinstatement of the providers' privileges, through the report known as a revision-to-action report; however, DHA did not always report such decisions to the NPDB in a timely manner. DHA is required to submit the revision-to-action report within 30 days of reinstating a provider who was previously reported for a summary suspension. However, seven of the 10 revision-to-action reports were not submitted within 30 days of the reinstatement. In two cases, DHA failed to submit revision-to-action reports for at least 100 days after providers had been reinstated. Thus, there were delays in letting NPDB users know that although the providers had been summarily suspended for more than 30 days, investigations did

not result in adverse actions. As the revision-to-action report lets NPDB users know an investigation has been completed and did not result in an action being taken against a provider, those who rely on this information may not be aware of a provider's reinstatement to practice.

Reporting Final Actions

We found that DHA reported all 14 providers that received a final clinical adverse action to both the NPDB and state licensing boards, as required.[25] However, DHA did not meet the timeliness requirements for reports to the NPDB for four of the 14 cases, and to the state licensing boards for six of the 14 cases (see fig. 3).

Figure 3: DHA and Military Department Adherence to Requirements for Reporting 14 Final Clinical Adverse Action Cases from Four MTFs



Source: GAO analysis of 14 cases from four military medical treatment facilities (MTF); GAO (illustrations). | GAO-24-106107

Note: Among the 55 clinical adverse action cases initiated between October 2019 and September 2022 by four MTFs, we identified 14 providers from four selected MTFs with final DHA decisions for clinical adverse actions. DHA was responsible for reporting all but one of the 14 providers in our review with a clinical adverse action. Navy was responsible for one case and submitted the reports within the required 30-day time frame.

[25]The 14 providers in our review who had final clinical adverse actions against them are not a subset of the 16 providers in our review who were required to be reported for summary suspensions exceeding 30 days. Some of the 16 providers with reportable summary suspensions were reinstated. Additionally, some of the 14 providers with final clinical adverse actions were not privileged and thus, there was no requirement to report them for summary suspension.

Providers can have licenses in more than one state and thus DHA would need to make multiple state licensing board reports. Identifying all states where a provider holds licenses was outside the scope of our review. Therefore, in assessing adherence, we gave credit if DHA notified one or more state licensing boards within 30 days, but it's possible that additional states where a provider was licensed were not notified or were not notified in a timely manner.

DHA officials said multiple factors contributed to the late reporting, such as staffing and the transition to DHA administration. Additionally, for state licensing boards, DHA officials stated that some delays were due to a misunderstanding about what reports the NPDB automatically forwards to state licensing boards.

If DHA does not adhere to its requirements for reporting providers to the NPDB and state licensing boards, including doing so in a timely manner, there is a risk that individuals within and outside of DOD are missing information they need to make informed decisions that affect quality and safety of patient care. DHA officials told us that if MTF staff fail to notify external facilities about summary suspensions, other facilities (including potential employers) could still become aware of these issues by querying the NPDB. However, this is not possible if DHA does not report summary suspensions and adverse actions to NPDB and state licensing boards in a timely manner.

DHA Does Not Sufficiently Monitor Its Own Adherence to Clinical Adverse Action Requirements

We found limitations in DHA's monitoring efforts likely contributed to its nonadherence to certain requirements, including reporting. DHA officials told us they monitor their own adherence to requirements primarily through reviewing the ongoing reports DHA uses to monitor MTFs' adherence to clinical adverse action requirements.[26] These weekly monitoring reports include the status of many of the DHA-level steps in the adverse action process for each case. However, we found that DHA's monitoring reports do not include information needed to assess adherence to certain requirements, such as state licensing board reporting and reporting timeliness. Further, DHA does not have timeliness requirements for key steps in the clinical adverse action process against which to assess adherence.

[26]Since DHA conducts the case audits before completing its other required steps in the process, the audits are focused on MTF adherence and do not capture DHA's own adherence.

Monitoring Reports Do Not Have Information Needed to Assess Adherence

DHA's monitoring reports do not include the dates DHA reported its final report authority decisions to state licensing boards within the required time frames. As a result, DHA does not have information needed to assess adherence to its own requirements for reporting providers to state licensing boards, which may have contributed to the instances of nonadherence that we observed.

DHA's monitoring reports also do not calculate the time elapsed between DHA's steps in the adverse action process. For example, the reports do not calculate the number of days DHA took to report providers, and thus do not assess adherence to the required 30-day reporting time frame. DHA officials said that they could calculate the time elapsed between steps since the monitoring reports include dates for completing most steps, but, as of December 2023, confirmed they were not doing so. Therefore, DHA does not monitor how long it takes to complete these steps nor assess the overall timeliness of the clinical adverse action process. If DHA does not monitor the length of time taken to complete DHA procedures, then DHA may also miss opportunities to identify and address delays associated with specific cases.

DHA Does Not Have Timeliness Requirements for Key Steps of the Process

We found that DHA lacks timeliness requirements for completing its steps of the clinical adverse action process, other than the requirement for timely reporting to NPDB and state licensing boards. Specifically, the DHA manual does not specify timeliness requirements for the audit, the legal review, the appeal, or issuing a final report authority decision. (See sidebar.) This is in contrast to the section of the same DHA manual that establishes timeliness requirements for many of the MTF-level steps and gives the MTF authority to grant timeline extensions when needed.

Defense Health Administration (DHA) steps in the clinical adverse action process

1. DHA officials conduct an audit of each case.
2. Once DHA staff complete the audit, DHA attorneys conduct a legal review of each case to determine if the provider was afforded sufficient due process.
3. If the provider chose to appeal the MTF privileging authority's decision, then DHA also arranges for a clinical peer review and arranges for an appeal panel to review the entire case and make a recommendation to the DHA report authority.
4. The Director of the DHA, known as the report authority, renders a final decision.

Source: GAO summary of DHA process. | GAO-24-106107

The DHA manual states that part of the purpose of the clinical adverse action process is to ensure timely resolution of the issues and ensure timely reporting to regulatory entities, when required; federal internal controls state that management should design control activities to achieve their objectives, including timely recording of events to maintain their

value in controlling operations and making decisions.[27] Further, federal internal controls state that entities should measure and monitor their performance in order to achieve objectives.[28] Monitoring the timeliness of its steps in the clinical adverse action process would help DHA ensure that it is achieving its purpose of timely reporting and resolution.

We reviewed the time DHA took to complete its steps for 14 cases that required DHA review and found that these steps comprised a significant proportion of the total time to complete the clinical adverse action process in those cases.[29] For example, DHA took an average of 336 days—almost a year—to complete its steps and issue its final report authority decisions for those cases. This was almost twice as long as it took the selected MTFs to complete their part of the process for the same 14 cases. See appendix III for additional details on our analysis, including the length of time DHA took to complete its steps in the adverse action process.

DOD Oversight of DHA's Adherence to Reporting Requirements for Clinical Adverse Actions Is Limited

The DOD Office of the Assistant Secretary of Defense for Health Affairs is also partially responsible for ensuring DHA's adherence to the clinical adverse action requirements, including reporting per the DOD policy.[30] However, while Health Affairs takes steps to oversee DHA, the information it relies on from DHA to do so is not sufficient to assess adherence.

Health Affairs delegated to DHA the responsibility for implementing requirements for taking clinical adverse actions against providers but retains responsibility for oversight per DOD policy. As part of this responsibility, Health Affairs chairs a work group tasked with overseeing

[27]Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives to achieve the entity's objectives. GAO-14-704G.

[28]Federal internal controls state that management should establish control activities to achieve objectives and respond to risks, such as by establishing and monitoring performance measures. See GAO-14-704G.

[29]In February 2023, DHA issued a flow chart illustrating DHA steps in the clinical adverse action process that included timeliness goals for some steps. Most of the timeliness goals listed were for administrative steps, such as uploading a document or sending it to the reviewer within 5 days. For the DHA audit step, the flow chart indicated that DHA should allow MTFs 7 days to respond to any requests for missing documents and should complete the audit within 30 days. However, this document was issued after the cases that we reviewed had gone through the clinical adverse action process and the timeliness standards in it are not required.

[30]DOD Instruction 6025.13

DHA's implementation of clinical adverse action procedures. Health Affairs officials said the work group's oversight activities include conducting quarterly meetings and reviewing reports generated by DHA related to clinical adverse action cases. Health Affairs officials told us the work group also discusses issues related to clinical adverse action procedures to identify possible opportunities for systemic and policy changes.

The reports DHA submits to Health Affairs include the aggregate number of providers DHA and each of the military departments report to the NPDB each quarter. However, the reports do not include data and measures of performance Health Affairs would need to assess DHA's adherence to reporting requirements, such as the number of providers with reportable actions or whether reports were submitted within the timeliness requirements. In December 2023, Health Affairs officials told us that they plan to develop metrics to evaluate performance of reporting providers to external bodies; officials did not provide a target completion date.

Reporting summary suspensions and final clinical adverse actions within required time frames to regulatory entities and the NPDB, is a critical step in the clinical adverse action process, given that failure to do so poses risks to patient safety. However, without more information on DHA's reporting of clinical adverse actions to the NPDB and other entities as required, Health Affairs is unable to assess DHA's adherence to these key program requirements. Such gaps in information may limit Health Affairs' ability to oversee the clinical adverse action program and impede efforts to strengthen accountability across the Military Health System.

Conclusions

Congress and DOD have taken steps intended to strengthen accountability, transparency, and standardization in the Military Health System. However, our review shows that four selected MTFs and DHA did not always adhere to the DHA requirements for taking clinical adverse actions against providers and were often not timely in their actions. Further, DHA had not established timeliness requirements for many of its own steps in the process, and its monitoring and oversight efforts had limitations. Without timely completion of procedural steps and reporting providers, opportunities exist for other MTFs or non-DOD health care entities to employ providers without accurate vetting of their clinical performance, including issuance of clinical adverse actions against providers. To ensure that health care providers at MTFs are afforded timely due process and are qualified and competent to deliver safe, high-quality care to service members and their families, it is critical that DOD

address deficiencies in, and timeliness of, the clinical adverse action process and that it strengthen its monitoring and oversight efforts.

Recommendations for Executive Action

We are making a total of six recommendations. Specifically, we are making the following five recommendations to DHA and one recommendation to the Office of the Assistant Secretary of Defense for Health Affairs:

The Director of DHA should modify its monitoring reports or audit tools to capture information needed to effectively assess adherence to certain requirements, such as notification to other health care entities of a provider's summary suspension and state licensing board reporting. (Recommendation 1)

The Director of DHA should strengthen its monitoring of MTFs' and DHA's timeliness in completing the steps in the clinical adverse action process. (Recommendation 2)

The Director of DHA should clarify in the DHA procedures manual for clinical adverse actions that MTFs must summarily suspend providers at the initiation of all clinical adverse action cases. (Recommendation 3)

The Director of DHA should clarify in the DHA procedures manual for clinical adverse actions the requirements for documenting the MTFs' final privileging authority decisions. This should include specifying that implementation of the privileging authority decision should be documented in a timely manner. (Recommendation 4)

The Director of DHA should establish timeliness requirements for the DHA-level procedures in the clinical adverse action process, including the DHA audit, legal sufficiency review, clinical peer review, appeal panel meeting and recommendation, and final report authority decision. (Recommendation 5)

The Assistant Secretary of Defense for Health Affairs should require DHA to report data on its adherence to clinical adverse action reporting requirements, such as the number of providers with reportable actions and the timeliness of reports, and should use this information to improve its oversight of DHA. (Recommendation 6)

Agency Comments

We provided a draft of this product to DOD for review and comment. In its written comments, reproduced in appendix IV, DOD concurred with all six recommendations.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, and other interested parties. In addition, the report will be available at no charge on GAO's website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-7114 or SilasS@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

Sharon M. Silas
Director, Health Care

Appendix I: Scope and Methodology

We selected four military medical treatment facilities (MTF) to analyze adherence to the Defense Health Agency (DHA) procedures for both objectives. We selected these four MTFs to include representation from each of the military departments and geographical distribution of MTFs in the United States. We also selected the MTFs to include a range in the number of completed clinical adverse actions as reported by DHA and the military departments as of September 2022.

To inform our MTF selection, DHA and Air Force provided data from the Military Health System's clinical adverse action database on the number of clinical adverse action cases that were initiated by MTFs between October 2019 and September 2022. The Air Force report included all cases initiated by Air Force MTFs before Air Force's transition in October 2021; the DHA data included all Air Force cases initiated after this date, as well as all cases initiated by Army and DHA MTFs. Additionally, Navy provided a report with a written summary of clinical adverse action cases that were initiated by Navy MTFs between October 2019 and September 2022.

To examine selected MTFs' and DHA's adherence to DHA requirements for taking clinical adverse actions against health care providers, we reviewed documentation of 55 clinical adverse action cases that were initiated by the four selected MTFs after October 1, 2019, and completed by December 31, 2022. While DHA has been primarily responsible for clinical adverse actions and associated reporting since October 1, 2019, the military departments (Air Force, Army, and Navy) each provided administrative support to DHA between October 1, 2019 and October 1, 2022. We identified the 55 cases that were initiated by the four MTFs by reviewing data from DHA, Air Force, and Navy as of September 2022.[1] We assessed the case documentation for MTF adherence against 63 of DHA's clinical adverse actions requirements in DHA's procedures manual. We assessed DHA's adherence against 20 requirements. Further, we interviewed MTF staff and DHA officials regarding their implementation of the DHA procedures.

From each MTF, we also reviewed documentation, such as meeting minutes, and requested a list of clinical adverse action cases to determine whether the DHA and military department datasets of clinical adverse actions were complete. We identified an additional 15 cases that were

[1]We did not assess adherence for clinical adverse action cases that were ongoing at the time we conducted our work to avoid any real or perceived influence on the outcome of cases that were still undergoing review.

missing from the datasets. We did not review the 15 cases that were missing from the datasets for adherence. However, the missing cases were part of our determination that the datasets were not reliable for reporting aggregate information about clinical adverse action cases across all MTFs in our report.

Because some aspects of the transition to DHA administration continued through 2022, we also examined the military departments' adherence to DHA reporting requirements for cases from the four MTFs for which the military departments were responsible for reporting providers. Specifically, we reviewed Air Force's and Navy's adherence to DHA's summary suspension reporting requirements for one case each, as well as Army's adherence to DHA's summary suspension reporting requirements for five cases.

To examine DHA's monitoring of MTFs' and its own adherence to the DHA procedures, we interviewed DHA officials and reviewed documentation of DHA's monitoring. Similarly, we interviewed officials in the Department of Defense's (DOD) Office of the Assistant Secretary of Defense for Health Affairs and reviewed documentation of DOD's Office of the Assistant Secretary of Defense for Health Affairs monitoring efforts. We evaluated DHA's monitoring and DOD's oversight against federal internal control standards related to control activities and monitoring.[2]

We conducted this performance audit from June 2022 to April 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[2]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 2014). Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved.

Appendix II: Clinical Adverse Action Procedures Implemented at Military Medical Treatment Facilities and by the Defense Health Agency

The Defense Health Agency (DHA) and the military medical treatment facilities (MTF) share responsibility for investigating provider quality and safety concerns and determining whether to take clinical adverse action against a provider. DHA's procedures manual, which establishes requirements for DHA and the MTFs in the clinical adverse action process, took effect on October 1, 2019.[1]

Required Procedures Implemented at MTFs

DHA's procedures manual requires MTFs to conduct several steps, some of which include timeliness requirements. Specifically, MTF staff are required to conduct the following steps:

Summary suspension. When an MTF determines that a concern about the quality or safety of a provider's care warrants a potential clinical adverse action, the MTF initiates the process by placing the provider in summary suspension. During this time, the provider is fully or partially removed from providing care until the completion of the clinical adverse action process. The MTF privileging authority—typically the MTF Director or Commander—issues a summary suspension letter to the provider.[2] DHA also requires the MTF privileging authority to notify any other health care entities where the provider is practicing of the summary suspension.

MTF investigation. The MTF privileging authority initiates a quality assurance investigation of the provider's care by appointing in writing an appropriate clinical peer. The appointment letter must specify a deadline for completing the investigation. Upon completion, the investigator issues a written report with conclusions for each allegation and a recommended action.

A copy of the written report is delivered to the provider under review. The provider then has 15 calendar days to submit a written statement, if desired.

MTF recommendation. The credentials committee—a group of MTF staff responsible for making recommendations to MTF leadership on matters related to privileging—meets to review the investigation report and, if submitted, the provider's statement. The credentials committee then

[1]See Department of Defense, Defense Health Agency, *Defense Health Agency Procedures Manual 6025.13: Clinical Quality Management in the Military Health System,* "Volume 3: Healthcare Risk Management" (Falls Church, Va.: Aug. 29, 2019).

[2]The letter notifies the provider of the reason for the summary suspension and outlines the next steps in the clinical adverse action process, among other things.

provides a recommendation for clinical adverse action or reinstatement to the MTF privileging authority within 10 calendar days of completion of the credentials committee meeting.

MTF proposed decision. The MTF privileging authority makes a proposed decision and provides notification to the provider within 10 calendar days of the credentials committee recommendation. If the privileging authority's proposed decision is to reinstate the provider, with or without monitoring, the decision is final, and the clinical adverse action process is complete.

Peer review hearing. If the proposed decision is a clinical adverse action, the provider has 30 days to request a peer review hearing before the privileging authority issues a final decision, if desired. If requested, a panel of impartial, clinically appropriate peers holds a hearing and then provides a written report with findings and a recommendation to the MTF privileging authority.

A copy of the peer review hearing record, including a transcript of the hearing, is given to the provider within 30 calendar days of completion of the hearing. The provider then has 10 calendar days to submit any corrections to the record.

MTF final decision. After legal review, the MTF privileging authority makes a final decision within 10 calendar days of receipt of the peer review hearing record, including the provider's corrections. If the final decision is a clinical adverse action, the provider may choose to submit a written appeal within 10 calendar days of receipt of the privileging authority's final decision. The privileging authority then has 14 calendar days to provide a written decision on the appeal.

The DHA procedures state that the privileging authority's final decision is effective immediately, regardless of whether the provider submits an appeal. Notification of the privileging authority's final decision must be given to the provider and documented in the Military Health System's clinical adverse action database.

DHA requires MTFs to notify DHA throughout the process, including at the initiation of the process and when the privileging authority makes a proposed decision. DHA officials told us MTFs are required to upload documentation of their completed steps to the Military Health System's clinical adverse action document management system.

Required Procedures Implemented by DHA

For cases that result in an MTF privileging authority final decision of clinical adverse action against the provider, such as restriction or revocation, DHA conducts additional steps before issuing a final report authority decision.

DHA legal review. DHA attorneys conduct a legal review of the entire case file to determine if the MTF followed the DHA process and if the provider was afforded sufficient due process.[3] If the DHA legal review reveals any due process concerns, DHA may return the case to the MTF for corrective actions.

DHA appeal. If the provider appealed the MTF privileging authority's decision, DHA arranges for two additional reviews of the case after the legal review is complete. First, DHA arranges for an additional clinical peer review of the case.[4] Second, DHA arranges for a panel of headquarters-level, senior clinicians to review the case and make a recommendation to the DHA report authority on whether to uphold the appeal or take the clinical adverse action.

DHA final decision. Regardless of whether the provider appealed the MTF privileging authority's decision, the DHA report authority—the DHA Director—reviews all cases involving a final clinical adverse action and makes a final decision. If the DHA report authority's decision is a clinical adverse action, the DHA report authority directs reporting to the NPDB and regulatory agencies.

DHA officials told us that, like the MTFs, DHA uploads documentation of its completed steps to the Military Health System's clinical adverse action document management system. Upon completion of the case, DHA officials said they also enter key information about the case into the

[3]The DHA procedures specify that a legal review is conducted for cases in which the MTF privileging authority's final decision is a clinical adverse action and the provider does not appeal the decision; DHA officials clarified that the legal review is also conducted for final adverse action decisions that are appealed. DHA officials also conduct an audit of each case prior to the legal review; however, this step is not required in the DHA manual.

[4]If the MTF already arranged for an additional clinical peer review as part of the privileging authority's consideration of the provider's appeal, DHA does not need to obtain another one.

Military Health System's risk management database, which is the official system of record.[5]

[5]DHA officials said that the reason for having two separate databases is that the official system of record does not have the capacity to store the documentation. Officials said they were considering options to improve the databases in the future.

Appendix III: Analysis of Defense Health Agency Timeliness for 14 Clinical Adverse Action Cases Initiated by Four Selected Military Medical Treatment Facilities

The Defense Health Agency (DHA) conducts several steps in the clinical adverse action process:

- DHA officials conduct an audit of each case.
- Once DHA staff complete the audit, DHA attorneys conduct a legal review of the case to determine if the provider was afforded sufficient due process.
- If the provider chose to appeal the military medical treatment facility (MTF) privileging authority's decision, then DHA also arranges for a clinical peer review and arranges for an appeal panel to review the entire case and make a recommendation to the DHA report authority.
- The Director of the DHA, known as the report authority, renders a final decision.

We analyzed the time it took for DHA to complete its steps in the clinical adverse action process for 14 cases that required DHA review, and found DHA took an average of 336 days—about a year—to complete its steps and issue its final report authority decision.[1] This was almost twice as long as it took the selected MTFs to complete their part of the process for the same 14 cases.[2]

Additionally, we found that, on average, DHA took longer to complete reviews of cases that were appealed than it did to complete the cases that were not appealed.[3] For the 11 cases that were not appealed by a provider, DHA took an average of 325 days to complete its steps, while it took an average of 366 days to complete its steps for four cases that were appealed by a provider. See figure 4 for additional details on our

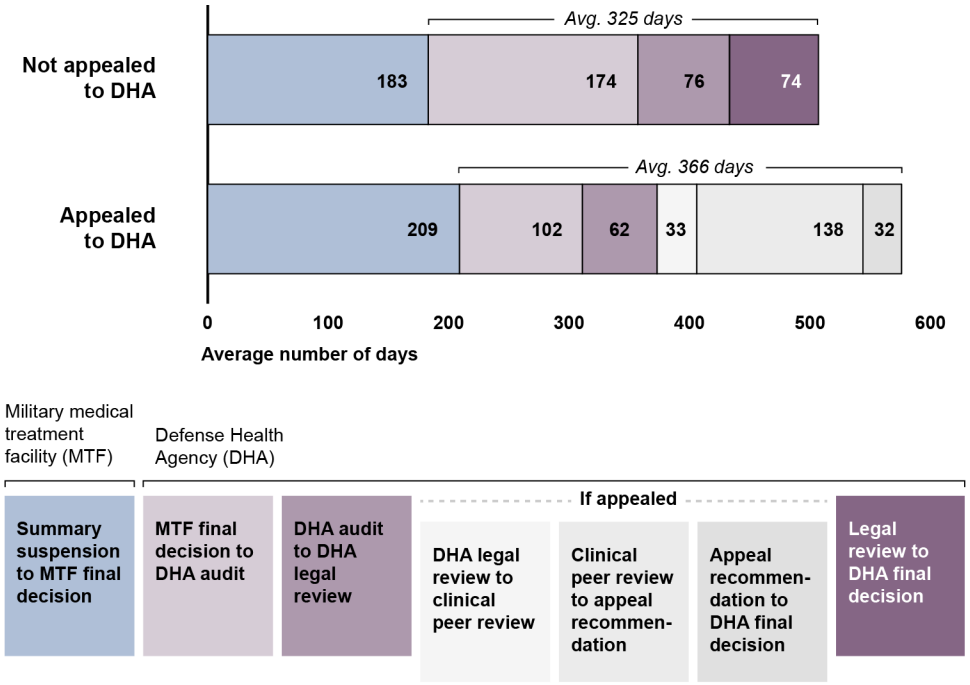
[1]Of the 55 cases we reviewed from four selected MTFs, 15 cases resulted in a final MTF decision for clinical adverse action, and thus required additional review. DHA was responsible for 14 of these cases; Navy was responsible for one case. We analyzed the 14 the cases that required DHA review. Of the 14 cases that required DHA review, 13 cases resulted in a final DHA decision for adverse action against the providers; one case did not result in a final DHA decision for adverse action. For this case, the DHA report authority overturned the MTF privileging authority's decision for adverse action against the provider.

[2]After a clinical adverse action case is initiated, the MTF conducts several steps, including an investigation of the provider's care, before issuing a decision. If the decision is to take a clinical adverse action, then the case goes to DHA for additional reviews and a final decision.

[3]Because DHA is required to conduct additional steps for cases in which the provider appeals the MTF privileging authority's decision, we reviewed the average time elapsed for appealed and non-appealed cases separately.

analysis of the time it took DHA to complete key steps in the clinical adverse action process for the 14 cases we reviewed.

Figure 4. Time Elapsed for DHA to Complete Key Steps in the Clinical Adverse Action Process for 14 Clinical Adverse Action Cases



Source: GAO analysis. | GAO-24-106107

Note: Of the 55 cases we reviewed from four selected MTFs, 15 cases resulted in a final MTF decision for clinical adverse action, and thus required additional review. DHA was responsible for 14 of these cases; Navy was responsible for one case. Of these 14 cases that DHA was responsible for, four providers appealed the MTF privileging authority's decision, while 10 providers did not. DHA conducts additional steps when a provider appeals a decision, which includes the clinical peer review and the appeal panel. Thus, the chart above shows fewer steps completed for providers who did not appeal a clinical adverse action.

We also found that DHA took more time to complete the audits than any other DHA step in the clinical adverse action process. For example, DHA took an average of 174 days to complete its audit for cases not appealed to DHA, accounting for just over one-third of the total case processing time from summary suspension to case closure for non-appealed cases. DHA officials said they conduct these audits of all clinical adverse action cases before proceeding with the required steps in the manual to ensure that the provider received due process throughout the clinical adverse action process and that they have a complete case file. As previously noted, we found that the DHA audits identified instances of

nonadherence, similar to deficiencies we found through our own case reviews. DHA officials said these audits can take time because DHA may need to request missing documentation or clarifications from the MTFs.

Some cases in our review experienced delays during other parts of the process. For one case in our review, the DHA appeal panel did not issue their recommendation to the DHA report authority until one year after the appeal panel meeting. DHA officials said this was due to unavailability of the appeal panel chairperson during this time.

DHA officials said the time elapsed for certain clinical adverse action cases likely reflected cases that occurred earlier in the transition when they had limited staff. DHA officials said they have improved their timeliness for many steps since the beginning of the implementation of DHA procedures. We found that the total number of days for DHA to conduct the required steps and issue final report authority decisions for the cases in our review reduced from an average of 377 days in 2020 to an average of 282 days in 2021.

Appendix IV: Comments from the Department of Defense

THE ASSISTANT SECRETARY OF DEFENSE

1200 DEFENSE PENTAGON
WASHINGTON, DC 20301-1200

HEALTH AFFAIRS

March 21, 2024

Ms. Sharon Silas
Director, Health Care
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Ms. Silas:

This is the Department of Defense (DoD) response to the Government Accountability Office (GAO) Draft Report GAO-24-106107, "MILITARY HEALTH CARE: DoD Should Improve Its Process for Taking Clinical Adverse Actions against Providers," dated January 23, 2024.

Attached is DoD's proposed response to the six recommendations included in the draft report. My point of contact is Dr. Bich-Thuy Sim who can be reached at bich-thuy.t.sim.civ@health.mil and (703) 681-5163.

Sincerely,

MULLEN.SEILEEN.MARIE.1519853007

Digitally signed by MULLEN.SEILEEN.MARIE.1519853007
Date: 2024.03.21 16:12:30 -04'00'

Lester Martínez-López, M.D., M.P.H.

Attachments:
As stated

GAO DRAFT REPORT DATED JANUARY 23, 2024
GAO-24-106107 (GAO CODE 106107)

"MILITARY HEALTH CARE: DOD SHOULD IMPROVE ITS PROCESS FOR TAKING CLINICAL ADVERSE ACTIONS AGAINST PROVIDERS"

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION

RECOMMENDATION 1: The Director of the Defense Health Agency should modify its monitoring reports or audit tools to capture information needed to effectively assess adherence to certain requirements, such as notification to other entities of a provider's summary suspension and state licensing board reporting.

DoD RESPONSE: Concur. The Defense Health Agency (DHA) will explore expanding tools to capture accurate information on the processing of clinical adverse actions with a special focus on required notifications to external entities and agencies.

RECOMMENDATION 2: The Director of the Defense Health Agency should strengthen its monitoring of MTFs' and DHA's timeliness in completing the steps in the clinical adverse action process.

DoD RESPONSE: Concur. The DHA acknowledges the importance of accurate and timely clinical adverse actions for all stakeholders. The DHA will revise policy requirements to enhance clinical adverse action oversight and monitoring at the military medical treatment facilities (MTF) and headquarters. Increased monitoring will assist the DHA in making further improvements in case processing timeliness and accuracy.

RECOMMENDATION 3: The Director of the Defense Health Agency should clarify in the DHA Procedures Manual for clinical adverse actions that MTFs must summarily suspend providers at the initiation of all clinical adverse action cases.

DoD RESPONSE: Concur. The DHA will clarify summary suspension procedures in the current policy update underway.

RECOMMENDATION 4: The Director of the Defense Health Agency should clarify in the DHA Procedures Manual for clinical adverse actions the requirements for documenting the MTFs' final privileging authority decisions. This should include specifying that implementation of the privileging authority decision should be documented in a timely manner.

DoD RESPONSE: Concur. Timely action on and documenting privileging authority decisions is critical to effective clinical adverse action due process. The DHA will update the Procedures Manual to clarify clinical adverse action requirements.

RECOMMENDATION 5: The Director of the Defense Health Agency should establish timeliness requirements for the DHA-level procedures in the clinical adverse action process, including the DHA audit, legal sufficiency review, clinical peer review, appeal panel meeting and recommendation, and final report authority decision.

DoD RESPONSE: Concur. The DHA will establish DHA-level procedures for appropriate timeliness to ensure prompt processing of clinical adverse action cases.

RECOMMENDATION 6: The Assistant Secretary of Defense for Health Affairs should require DHA to report data on its adherence to clinical adverse action reporting requirements, such as the number of providers with reportable actions and the timeliness of reports and use this information to improve its oversight of DHA.

DoD RESPONSE: Concur. The Assistant Secretary of Defense for Health Affairs will review and appropriately update the clinical adverse action reporting requirements for the DHA in order to ensure comprehensive and appropriate oversight of the DHA.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Sharon M. Silas, (202) 512-7114, silass@gao.gov

Staff Acknowledgments

In addition to the contact named above, Ann Tynan (Assistant Director), Kaitlin McConnell (Analyst in Charge), Mela Brown, Matthew Curtis, Sarah McGrath, and Catherine Parylo made major contributions to this report. Also contributing to this report were Jennie Apter, Lori Atkinson, Jacquelyn Hamilton, Anna Hochberg, Jeanne Murphy-Stone, and Ethiene Salgado-Rodriguez.

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