

118TH CONGRESS
1ST SESSION

S. 1037

To prohibit the Secretary of Veterans Affairs from carrying out certain activities under the Electronic Health Record Modernization Program until certification of system stability improvements.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2023

Mr. MORAN (for himself, Mr. BOOZMAN, Mr. CASSIDY, Mr. ROUNDS, Mr. TILLIS, Mrs. BLACKBURN, Mr. CRAMER, Mr. TUBERVILLE, Mr. RISCH, Mr. CRAPO, Mr. DAINES, Mr. BRAUN, and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To prohibit the Secretary of Veterans Affairs from carrying out certain activities under the Electronic Health Record Modernization Program until certification of system stability improvements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Vet-
5 erans Affairs EHRM Standardization and Accountability
6 Act”.

1 **SEC. 2. PROHIBITION ON CERTAIN ACTIVITIES BY SEC-**
2 **RETARY OF VETERANS AFFAIRS UNDER**
3 **ELECTRONIC HEALTH RECORD MODERNIZA-**
4 **TION PROGRAM UNTIL CERTIFICATION OF**
5 **SYSTEM STABILITY IMPROVEMENTS.**

6 (a) CERTIFICATION OF IMPROVEMENT.—

7 (1) PROHIBITION.—The Secretary of Veterans
8 Affairs may not commence a program activity at a
9 facility of the Veterans Health Administration where
10 no program activity has commenced as of the date
11 of the enactment of this Act until the date on which
12 the Secretary submits to the Committee on Vet-
13 erans' Affairs of the Senate and the Committee on
14 Veterans' Affairs of the House of Representatives a
15 written certification that the electronic health record
16 system has met the improvement objective described
17 in paragraph (2).

18 (2) IMPROVEMENT OBJECTIVE.—The improve-
19 ment objective described in this paragraph is—

20 (A) the achievement of a minimum uptime
21 and system-wide stability standard for the elec-
22 tronic health record system, as defined by the
23 Secretary in consultation with the Under Sec-
24 retary for Health, the Assistant Secretary for
25 Information and Technology, and the Chief In-

1 formation Officer of the Department of Vet-
2 erans Affairs; and

3 (B) the submittal by the Secretary to the
4 Committee on Veterans' Affairs of the Senate
5 and the Committee on Veterans' Affairs of the
6 House of Representatives of a report detailing
7 the completion status of corrections to the
8 customization and configuration of workflow de-
9 signs related to the electronic health record sys-
10 tem.

11 (b) CERTIFICATION OF READINESS.—

12 (1) IN GENERAL.—The Secretary may not im-
13 plement the electronic health record system at a fa-
14 cility of the Veterans Health Administration where
15 such system has not been implemented as of the
16 date of the enactment of this Act until the date on
17 which the Under Secretary for Health, in consulta-
18 tion with the director of such facility, submits to the
19 Secretary, and the Secretary transmits to the Com-
20 mittee on Veterans' Affairs of the Senate and the
21 Committee on Veterans' Affairs of the House of
22 Representatives, written certification that the staff
23 and infrastructure of such facility are adequately
24 prepared to receive such system.

1 (2) SUNSET.—This subsection shall terminate
2 on the date on which the Secretary has made the
3 certification under paragraph (1) at not less than
4 one facility of the Veterans Health Administration
5 for each of the complexity levels of 1, 2, and 3.

6 (c) EXCLUSION.—This section does not apply to any
7 facility that is jointly operated by the Department of Vet-
8 erans Affairs and the Department of Defense.

9 (d) REPORT.—

10 (1) INITIAL REPORT.—Not later than 30 days
11 after the date of the enactment of this Act, the Sec-
12 retary shall submit to the Committee on Veterans'
13 Affairs of the Senate and the Committee on Vet-
14 erans' Affairs of the House of Representatives a re-
15 port that contains the following:

16 (A) A comprehensive review of the systems
17 and networks of the Department of Defense
18 within the Federal electronic health record envi-
19 ronment, including the Defense Enrollment Eli-
20 gibility Reporting System, and the potential im-
21 pacts of such systems and networks on the elec-
22 tronic health record system.

23 (B) With respect to certifications of the
24 readiness of a facility to receive the electronic
25 health record system under subsection (b)—

1 (i) the single, standard pre-deploy-
2 ment site readiness task list through which
3 the Secretary will determine such readi-
4 ness;

5 (ii) a determination by the Secretary
6 of—

7 (I) how the Secretary will align
8 staff of the facility to the electronic
9 health record system functionality;
10 and

11 (II) the minimum percentage re-
12 quirement of staff at the facility who
13 will complete training on such
14 functionality or who will have their
15 primary role to be working with such
16 system to achieve such readiness.

17 (C) The national standard for workflows,
18 system interfaces, medical devices, clinical con-
19 tent, order sets, and user roles as delineated by
20 the clinical complexity index of the Department
21 of Veterans Affairs for—

22 (i) facilities at complexity levels of 2
23 or 3; and

24 (ii) facilities at complexity levels of 1.

1 (2) QUARTERLY REPORT.—Not less frequently
2 than quarterly following the initial report required
3 under paragraph (1), the Secretary shall submit to
4 the Committee on Veterans’ Affairs of the Senate
5 and the Committee on Veterans’ Affairs of the
6 House of Representatives a detailed report on—

7 (A) any site level deviations from the na-
8 tional standard specified under paragraph
9 (1)(C) and costs associated with such devi-
10 ations; and

11 (B) any changes to standard readiness
12 task list specified under paragraph (1)(B)(i).

13 (e) DEFINITIONS.—In this section:

14 (1) ELECTRONIC HEALTH RECORD SYSTEM.—
15 The term “electronic health record system” means
16 the electronic health record system implemented pur-
17 suant to the Electronic Health Record Moderniza-
18 tion Program.

19 (2) PROGRAM ACTIVITY.—The term “program
20 activity” means an activity under the Electronic
21 Health Record Modernization Program at a facility
22 of the Veterans Health Administration, including
23 any site assessment (including State reviews), local
24 or national workshop, training, testing, or any other

- 1 activity conducted before the activation of the elec-
- 2 tronic health record system.

