

VETERANS' ELECTRONIC HEALTH RECORD
MODERNIZATION OVERSIGHT ACT OF 2017

MAY 21, 2018.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. ROE of Tennessee, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 4245]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4245) to direct the Secretary of Veterans Affairs to submit to Congress certain documents relating to the Electronic Health Record Modernization Program of the Department of Veterans Affairs, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4245, the ‘Veterans’ Electronic Health Record Modernization Oversight Act of 2017, would: direct the Department of Veterans Affairs (VA) to provide Congress with the key planning and implementation documents related to its Electronic Health Record Modernization (EHRM) program, in addition to copies of its underlying contracts, to indicate the effort’s progress and how money is being spent. This bill would also require VA to notify Congress in the event of any significant cost increase, schedule delay, loss of veteran health data, or breach of privacy. Representative Tim Walz, the Ranking Member of the Committee on Veterans’ Affairs, introduced H.R. 4245 on November 3, 2017.

BACKGROUND AND NEED FOR LEGISLATION

In July 2015, the Department of Defense (DoD) commenced its electronic health record (EHR) modernization effort, called MHS GENESIS, by awarding a contract to the Leidos Partnership for Defense Health. The objective of MHS GENESIS is to implement the Cerner Corporation’s Millennium EHR and Henry Schein, Inc.’s Dentrax Enterprise software, with Leidos serving as the prime integrator, to replace the Armed Forces Health Longitudinal Technology Application and the Composite Health Care System in waves consisting of groups of military treatment facilities through 2022.

In June 2017, then-Secretary of Veterans Affairs David Shulkin signed a determination and findings document utilizing the public interest exception of the Federal Acquisition Regulation to authorize issuance of a sole-source contract solicitation to Cerner to purchase and implement its Millennium EHR to replace the Veterans Health Information Systems and Technology Architecture in VA. The overarching goal of VA’s EHRM program is to implement a common EHR throughout VA and the DoD Military Health System capable of seamless interoperability to facilitate transition of active duty military members into VA, improve their timely access to care, and enable a single, accurate, lifetime health record. VA’s implementation is similarly structured as a series of waves consisting of groups of medical centers, closely corresponding to the MHS GENESIS waves, through 2027.

In February, July, September, and October 2017, MHS GENESIS completed implementations at the Fairchild Air Force Base clinic, Naval Hospital Oak Harbor, Naval Hospital Bremerton, and Madigan Army Medical Center, respectively. Early reports from these facilities indicate several issues of concern for the Committee with respect to VA’s forthcoming EHRM implementation. As of this report’s filing, VA has not yet awarded the EHRM contract to Cerner. VA tasked the MITRE Corporation to conduct a review of the intended contract’s interoperability requirements, from which a report was issued in January 2018. Additional reviews of the intended contract have continued. In April 2018, Acting Secretary of Veterans Affairs Robert Wilkie announced his near-term priority to finalize a decision on EHRM.

Given the high cost, length, level of risk, and transformational importance of the EHRM program, it is necessary for the Committee to devote to it rigorous oversight. This entails monitoring

the program's strategic conception, organizational construction, contractual activity, technical soundness, and actual progress. These factors are established and recorded in key programmatic and contractual documents.

HEARINGS

On March 7, 2018, the Subcommittee on Oversight and Investigations held a legislative hearing that included a discussion of H.R. 4245.

The following witnesses testified:

The Honorable Cathy McMorris Rodgers, U.S. House of Representatives, 5th District, Washington; Fred Mingo, Director of Program Control, Program Executive Office, Electronic Health Record Modernization Program, U.S. Department of Veterans Affairs, accompanied by Ricky Lemmon, Acting Deputy Chief Procurement Officer, Veterans Health Administration, U.S. Department of Veterans Affairs, John Adams, Director of Corporate Travel, Office of Management, U.S. Department of Veterans Affairs, and Katrina Tuisamatatele, Health Portfolio Director, Office of Information and Technology, U.S. Department of Veterans Affairs; Louis Celli, Jr., Director, Veterans Affairs & Rehabilitation Division, The American Legion; and Scott Denniston, Executive Director National Veterans Small Business Coalition.

Statements for the record were provided by:

The Honorable Cathy McMorris Rodgers, U.S. House of Representatives, 5th District, Washington; and Veterans of Foreign Wars.

SUBCOMMITTEE CONSIDERATION

There was no Subcommittee markup of H.R. 4245.

COMMITTEE CONSIDERATION

On May 8, 2018, the full Committee met in open markup session, a quorum being present, and ordered H.R. 4245 favorably reported to the House of Representatives by voice vote. A motion by Representative Tim Walz of Minnesota to report H.R. 4245 favorably to the House of Representatives was adopted by voice vote.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, there were no recorded votes taken on amendments or in connection with ordering H.R. 4245 reported to the House. A motion by Representative Tim Walz of Minnesota to report H.R. 4245 favorably to the House of Representatives was adopted by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are to ensure VA provides the Committee with the appropriate information and documentation to conduct rigorous oversight over the EHRM program.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 4245 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 4245 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 4245 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 9, 2018.

Hon. PHIL ROE, M.D.,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4245, the Veterans' Electronic Health Record Modernization Oversight Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 4245—Veterans' Electronic Health Record Modernization Oversight Act of 2017

Within a month of enactment, H.R. 4245 would require the Department of Veterans Affairs (VA) to submit to the Congress documents related to managing the Electronic Health Record Mod-

ernization (EHRM) program. The bill also would require VA to provide the Congress with quarterly reports on the program and information regarding related contractual agreements. Under the EHRM program, VA plans on adopting the electronic health records used by the Department of Defense.

The documents that the bill would require VA to submit will already be prepared in conjunction with the EHRM Program. As a result, CBO estimates that implementing the bill would cost less than \$500,000 over the 2019–2023 period to compile and submit the necessary program documents to the Congress. That spending would be subject to the availability of appropriated funds.

Enacting H.R. 4245 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4245 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 4245 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Ann E. Futrell. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 4245 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 4245.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, H.R. 4245 is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 4245 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 4245 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee estimates that H.R. 4245 contains no directed rule-making that would require the Secretary to prescribe regulations.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 of the bill would establish the short title as the “Veterans’ Electronic Health Record Modernization Oversight Act of 2017.”

Section 2. Oversight of Electronic Health Record Modernization program

Section 2(a) of the bill would require that, not later than 30 days after enactment, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs and Appropriations of the House and Senate copies of 15 documents produced in the EHRM program.

Section 2(b) of the bill would require that, not later than 30 days after the end of each fiscal quarter, the Secretary shall provide quarterly updates of six of the documents required in section 2(a).

Section 2(c) of the bill would require the Secretary to provide to the Committees copies of all contracts, orders, agreements, or modifications thereto, not later than five days after their award.

Section 2(d) of the bill would require the Secretary to provide notification to the Committees not later than 10 days after the occurrence of any delay of any milestone or deliverable exceeding 30 days, request for equitable adjustment by the contractor or change order exceeding \$1 million, submission of any protest, claim, dispute, and resolution of the same, loss of clinical or other data, or breach of patient privacy.

Section 2(e) of the bill would provide relevant definitions.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

If enacted, this bill would make no changes to existing law.