

114TH CONGRESS  
1ST SESSION

# H. R. 1590

To establish a prize program to award a prize and contract for the development of a fully-integrated electronic health records program for use by the Department of Defense and the Department of Veterans Affairs.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2015

Mr. ROE of Tennessee introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish a prize program to award a prize and contract for the development of a fully-integrated electronic health records program for use by the Department of Defense and the Department of Veterans Affairs.

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 “Integrated Electronic  
5 Health Records (iEHR) for Military and Veterans Act”.

1 **SEC. 2. PRIZE PROGRAM FOR THE DEVELOPMENT OF A**  
2 **FULLY-INTEGRATED ELECTRONIC HEALTH**  
3 **RECORDS PROGRAM FOR USE BY THE DE-**  
4 **PARTMENT OF DEFENSE AND THE DEPART-**  
5 **MENT OF VETERANS AFFAIRS.**

6 (a) PRIZE AUTHORITY.—

7 (1) IN GENERAL.—The Secretary of Defense  
8 and the Secretary of Veterans Affairs shall jointly  
9 carry out a program to award a cash prize in the  
10 amount of \$50,000,000 and contract to an entity  
11 that develops a fully-integrated electronic health  
12 records program for national use by the Department  
13 of Defense and the Department of Veterans Affairs.

14 (2) ADVERTISING AND SOLICITATION OF COM-  
15 PETITORS.—

16 (A) ADVERTISING.—The Secretaries shall  
17 widely advertise prize competitions under this  
18 section to encourage broad participation by re-  
19 searchers, large and small businesses, institu-  
20 tions of higher education, and any other quali-  
21 fied applicants, including veterans.

22 (B) ANNOUNCEMENT THROUGH FEDERAL  
23 REGISTER NOTICE.—The Secretaries shall an-  
24 nounce each prize competition under this sec-  
25 tion by publishing a notice in the Federal Reg-  
26 ister. This notice shall include essential ele-

1           ments of the competition such as the subject of  
2           the competition, the duration of the competi-  
3           tion, the eligibility requirements for participa-  
4           tion in the competition, the process for partici-  
5           pants to register for the competition, the  
6           amount of the prize, and the criteria for award-  
7           ing the prize and contract.

8           (3) ANNOUNCEMENT OF PRIZES.—The Sec-  
9           retary may not issue a notice required by paragraph  
10          (2)(B) until all the funds needed to pay out the an-  
11          nounced amount of the prize have been appro-  
12          priated.

13          (b) ELIGIBILITY.—To be eligible to win a prize under  
14          this section, an individual or entity—

15               (1) shall have complied with all the require-  
16               ments in accordance with the Federal Register no-  
17               tice required under subsection (a)(2)(B);

18               (2) in the case of a private entity, shall be in-  
19               corporated in and maintain a primary place of busi-  
20               ness in the United States, and in the case of an in-  
21               dividual, whether participating singly or in a group,  
22               shall be a citizen of, or an alien lawfully admitted  
23               for permanent residence in, the United States; and

24               (3) shall not be a Federal entity, a Federal em-  
25               ployee acting within the scope of his employment, or

1 an employee of a national laboratory acting within  
2 the scope of his employment.

3 (c) JOINT PANEL.—

4 (1) ESTABLISHMENT.—The Secretary of De-  
5 fense and the Secretary of Veterans Affairs shall es-  
6 tablish a joint panel to establish the criteria for the  
7 development of a fully-integrated electronic health  
8 records program eligible for an award and contract  
9 under this section to ensure that the program meets  
10 the requirements of the Department of Defense and  
11 the Department of Veterans Affairs.

12 (2) MEMBERSHIP.—

13 (A) IN GENERAL.—The members of the  
14 joint panel shall be—

15 (i) one physician from each of the  
16 military departments, to be appointed by  
17 the Secretary of the military department  
18 concerned;

19 (ii) two physicians employed by the  
20 Department of Veterans Affairs, to be ap-  
21 pointed by the Secretary of Veterans Af-  
22 fairs; and

23 (iii) two representatives of the Vet-  
24 erans Benefits Administration of the De-  
25 partment of Veterans Affairs, to be ap-

1                   pointed by the Secretary of Veterans Af-  
2                   fairs.

3                   (B) DEADLINE FOR APPOINTMENT.—Mem-  
4                   bers of the joint panel shall be appointed by not  
5                   later than 14 days after the date of the enact-  
6                   ment of this Act. Any member who is not ap-  
7                   pointed by such deadline shall not be appointed  
8                   to the panel.

9                   (3) DEADLINE FOR CRITERIA.—The joint panel  
10                  shall establish criteria with sufficient specificity for  
11                  development, taking best practices of private and  
12                  public electronic health records under consideration.  
13                  If the panel fails to agree on such criteria or if an  
14                  insufficient number of members are appointed to the  
15                  panel before the deadline under paragraph (2)(B),  
16                  the National Health Information Technology Coordi-  
17                  nator shall determine such criteria, taking best prac-  
18                  tices of private and public electronic health record  
19                  systems into consideration.

20                  (d) DEADLINE FOR SUBMISSIONS.—The deadline for  
21                  the submission of an application to participate in the com-  
22                  petition under this section is the date that is one year after  
23                  the date on which the criteria are established under sub-  
24                  section (c), or if such date falls on a weekend, the next  
25                  weekday following such date.

1       (e) AWARD SELECTION.—The Secretary of Defense  
2 and the Secretary of Veterans Affairs shall award prizes  
3 under this section on the basis of the criteria published  
4 in the notice required under subsection (a)(2)(B).

5       (f) CONTRACT.—Notwithstanding any other provision  
6 of law, the entity that is awarded a prize under this sec-  
7 tion shall be awarded a contract with the Department of  
8 Defense and the Department of Veterans Affairs to pro-  
9 vide the fully-integrated electronic health records program  
10 for which the prize is awarded to the Departments and  
11 to provide maintenance and support for such program for  
12 a five-year period and under such contract shall be com-  
13 pensated in an amount of \$25,000,000 for each year. Such  
14 contract shall provide that—

15           (1) all data stored in the program shall be  
16 stored in a non-proprietary format using industry  
17 standards; and

18           (2) if the cost of providing maintenance and  
19 support for the program is less than the estimated  
20 cost of procuring such maintenance and support  
21 under a more traditional license model, the program  
22 shall continue to be owned by the entity but shall be  
23 provided to the Department for a monthly or annual  
24 fee.

25       (g) INTELLECTUAL PROPERTY.—

1           (1) TREATMENT OF WINNING INTELLECTUAL  
2     PROPERTY.—Upon the expiration of the contract re-  
3     ferred to in subsection (e) the intellectual property  
4     rights in the fully-integrated electronic health  
5     records program for which a prize is awarded under  
6     this section shall revert to the Federal Government.  
7     The entity that is awarded a prize under this section  
8     shall retain the intellectual property rights in any  
9     upgrades to the program developed by the entity.

10          (2) OTHER INTELLECTUAL PROPERTY.—Except  
11     as provided in paragraph (1), the Federal Govern-  
12     ment shall not, by virtue of offering or awarding a  
13     prize under this section, be entitled to any intellec-  
14     tual property rights derived as a consequence of, or  
15     direct relation to, the participation by a registered  
16     participant in a competition authorized by this sec-  
17     tion. This subsection shall not be construed to pre-  
18     vent the Federal Government from negotiating a li-  
19     cense for the use of intellectual property developed  
20     for a prize competition under this section.

21     (h) LIABILITY.—

22          (1) WAIVER OF LIABILITY.—The Secretary of  
23     Defense and the Secretary of Veterans Affairs may  
24     require registered participants to waive claims  
25     against the Federal Government (except claims for

1 willful misconduct) for any injury, death, damage, or  
2 loss of property, revenue, or profits arising from the  
3 registered participants' participation in a competi-  
4 tion under this section. The Secretary shall give no-  
5 tice of any waiver required under this paragraph in  
6 the notice required by subsection (a)(2)(B).

7 (2) LIABILITY INSURANCE.—

8 (A) REQUIREMENTS.—Registered partici-  
9 pants in a prize competition under this section  
10 shall be required to obtain liability insurance or  
11 demonstrate financial responsibility, in amounts  
12 determined by the Secretary, for claims by—

13 (i) a third party for death, bodily in-  
14 jury, or property damage or loss resulting  
15 from an activity carried out in connection  
16 with participation in a competition under  
17 this section; and

18 (ii) the Federal Government for dam-  
19 age or loss to Government property result-  
20 ing from such an activity.

21 (B) FEDERAL GOVERNMENT INSURED.—

22 The Federal Government shall be named as an  
23 additional insured under a registered partici-  
24 pant's insurance policy required under subpara-  
25 graph (A) with respect to claims described in

1 clause (i) of that subparagraph, and registered  
2 participants shall be required to agree to in-  
3 demnify the Federal Government against third  
4 party claims for damages arising from or re-  
5 lated to competition activities under this sec-  
6 tion.

7 (i) NONSUBSTITUTION.—The programs created  
8 under this section shall not be considered a substitute for  
9 Federal research and development programs.

10 (j) AUTHORIZATION OF APPROPRIATIONS.—There is  
11 authorized to be appropriated \$50,000,000 to carry out  
12 this section.

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