STATEMENT OF
MS. CHERRI WATERS
ACTING DEPUTY CHIEF INFORMATION OFFICER,
EXECUTIVE DIRECTOR, HEALTH PORTFOLIO, PRODUCT DELIVERY SERVICES
OFFICE OF INFORMATION AND TECHNOLOGY (OIT)
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
SUBCOMMITTEE ON TECHNOLOGY MODERNIZATION
U.S. HOUSE OF REPRESENTATIVES
ON

PENDING LEGISLATION

June 11, 2025

Chairwoman Kiggans, Chairman Barrett, Ranking Member Ramirez, Ranking Member Budzinski, and other Members of the Subcommittees, thank you for inviting us here today to present our views on several bills that would affect VA programs and services. Joining me today are Ms. Laura Duke, Chief Financial Officer, Veterans Health Administration, and Dr. Toni Phillips, Chief Nurse Informatics Officer, Electronic Health Record Modernization-Integration Office.

H.R. 984 Directing VA to Provide Timely Equitable Relief to Individuals Who Suffer a Loss Based on an Administrative Error

This bill would amend 38 U.S.C. § 503, which generally grants the Secretary the authority to grant equitable relief in cases of administrative error. Specifically, it would amend VA's existing permissive authority to grant equitable relief to require VA to grant such relief within 120 days of determining either (a) that benefits administered by VA were not provided by reason of an administrative error on the part of the Federal Government or any of its employees; or (b) that a Veteran, surviving spouse, child of a Veteran, or other person has suffered loss as a consequence of reliance upon a determination by VA of eligibility or entitlement to benefits without knowledge that it was erroneously made. Currently, the Secretary may choose to grant equitable relief if VA determines there was an error as described in a situation described in either (a) or (b), above.

The bill would also amend 38 U.S.C. § 5314(a), which sets forth conditions under which VA must deduct the amount of the indebtedness of any person who has been determined to be indebted to the United States by virtue of such person's participation in a benefits program administered by VA from future payments to such person under laws administered by VA. The bill would add a new paragraph (3) that would require VA to promptly cancel any agreement entered into by VA with a debt collector to collect an

amount of indebtedness described in paragraph (1) if VA finds that indebtedness was in error.

VA supports the intent of this bill but does not support this bill as written.

VA supports the intent of ensuring that equitable relief is granted expeditiously, but VA has significant concerns with the proposed changes to section 503. First, we are concerned about the potential for confusion regarding the finality of decisions and the scope of appeals. VA determines eligibility for Veterans' benefits through its adjudication process. Claimants may seek review of decisions by filing a request for higher level review, a supplemental claim, or a notice of disagreement within 1 year of the regional office's decision. 38 U.S.C. § 5104C. Each of these options provides, as a matter of right, *de novo* review of findings that were adverse to the claimant. A claimant who is not satisfied with the result of the review may seek further direct review within VA or, if the Board of Veterans' Appeals issued the most recent decision, by the Court of Appeals for Veterans Claims.

If a claimant does not file a timely request for direct review of a VA benefits decision, the decision becomes final. Once a decision becomes final, a claimant is not entitled to error correction as a matter of right except to the extent clear and unmistakable error (CUE) is established. A finding of CUE must be based on the record and the law that existed at the time of the prior adjudication. In addition, the error must be "undebatable and the sort which, had it not been made, would have manifestly changed the outcome at the time it was made." *Willsey v. Peake*, 535 F.3d 1368, 1371 (Fed. Cir. 2008). The purpose of this limitation is to "preclude repetitive and belated readjudication of veterans' benefit claims." *Cook v. Principi*, 318 F.3d 1334, 1339 (Fed. Cir. 2002). The proposed changes to section 503, however, would seemingly provide an additional avenue for review as a matter of right, even where finality has already attached.

In addition, the proposed changes would remove the Secretary's discretion to grant equitable relief. Congress established the equitable relief authority in section 503 so the Secretary could determine when and where it was appropriate to provide some form of relief based on a VA or Federal Government error. The focus of this statute is on ensuring equitable results. Determinations of equity are necessarily fact specific, and thus the need for discretion to adjust for different situations is fundamental. VA may make an error for which equitable relief was not appropriate, and the current law would allow the Secretary to determine no such relief is warranted. However, the bill's amendments would remove this discretion. Consequently, VA would be required to grant relief in any situation where an error was made, even when the interests of equity and fairness do not call for such relief (such as when another remedy would be available and more appropriate). This could result in unjust enrichment for affected parties and unnecessary additional expenses to the Department. Currently, decisions regarding what relief to grant under section 503 are not reviewable, and the form of the relief is left to the Secretary's discretion. *See*, *e.g. Darrow v. Derwinski*, 2 Vet.App. 303 (1992). VA is concerned that these amendments could upset this precedent and create

a basis for judicial review both for whether an error was committed and the amount and scope of the relief offered. This could result in perverse incentives for parties to seek out errors, even harmless ones, to try to force the use of this relief authority. VA has regularly reported on its use of the authority under section 503 for more than 20 years. If Congress has concerns about VA's use of the equitable relief authority, we would appreciate the opportunity to discuss these with the Committee to better understand them and how to address them. Additional legislation may or may not be needed in this case.

We note that VA does not currently enter into or have any contracts or agreements with debt collectors; VA refers outstanding debts to the Department of the Treasury. However, if VA chooses to use contractors in the future, VA has some concern with the scope of the proposed amendments to section 5314. The bill would require VA to cancel an agreement to collect an amount of indebtedness if VA determined the indebtedness was in error. As noted above, there may be situations—such as in a case of a harmless error—where it may still be reasonable to seek collection on an indebtedness resulting from VA's error. In situations like this (where collection would still be objectively reasonable despite VA's error), we do not believe it would be appropriate to cancel an entire contract or agreement with a debt collector, as the bill would require, simply because it would be used to collect a specific debt. This language could be read to require VA to terminate a contract that could be used to collect perfectly valid debts owed to VA. This could result in additional costs to VA to re-negotiate contracts or to establish new contracts following their termination. We believe the intent was to ensure that VA does not use contracted debt collectors to address a debt. VA could provide technical assistance to address this concern if needed.

If the bill's intent is to address debts Veterans owe based on delays in processing copayment liabilities, we believe a clearer and more effective way would be to address that problem directly, as the draft bill regarding copayment collection limitations would do. We would appreciate the opportunity to discuss these bills with the Committee to determine if there is any overlap in their intended effects and how best to proceed legislatively in this area.

VA does not have a cost estimate for this bill, but we note that requiring the granting of equitable relief could result in significant additional costs to VA.

H.R. 1663 Veterans Scam and Fraud Evasion (VSAFE) Act of 2025

Section 2 of this bill would establish a new 38 U.S.C. § 325, subsection (a) of which would establish in VA a VSAFE Officer who would be responsible for fraud and scam prevention, reporting, and incident response plans at VA.

Proposed section 325(b) would set forth the responsibilities of this Officer, which would include: (1) providing comprehensive communication from VA to VA employees and Veterans, their families, caregivers, and survivors during strategic and time-sensitive fraud and scam incidents; (2) establishing consistent guidance across VA for

employees and Veterans, their families, caregivers, and survivors on how to identify, report, and avoid fraud and scam attempts; (3) promoting VA's Veteran Identity Health Theft Helpline and identifying other identity theft resources available to Veterans, their families, caregivers, and survivors, including with respect to actions VA has taken to protect the identities of Veterans and their beneficiaries; (4) developing methods to monitor fraud and scam metrics within VA to provide internal and external reporting, establish advanced data analytics, and facilitate proactive and robust fraud and scam trend identification; (5) developing comprehensive training plans for VA employees fielding fraud and scam inquiries and reports; (6) coordinating with VA's Office of Inspector General (OIG) and other Federal departments and agencies to create a whole-of-Government view within VA with respect to the fraud prevention efforts at other Federal departments and agencies, identify the proper avenues for Veterans to report fraud attempts and receive assistance, and identify opportunities for coordination with other Federal departments and agencies; and (7) consulting with Veterans Service Organizations (VSO) and State, local, and Tribal governments, as necessary, to improve the understanding of fraud and scam risks within VA.

Proposed section 325(c) would provide that nothing in this section would authorize an increase in the number of full-time employees otherwise authorized for VA.

Proposed section 325(d) would establish a rule of construction that nothing in this section could be construed to limit OIG's authority as otherwise provided in title 38, U.S.C., or in chapter 4 of title 5, U.S.C. (commonly referred to as the Inspector General Act of 1978).

VA supports this section, subject to amendments and the availability of appropriations.

VA supports efforts to ensure that Veterans, their families, and all VA beneficiaries are not the victims of fraud or scams. In January 2023, VA created the VSAFE Officer to lead VA's efforts in alignment with current VA efforts to enhance coordination across VA and the Federal Government.

VA recommends the bill clearly establish the VSAFE Officer within the Veterans Experience Office; this placement would ensure appropriate prioritization of coordinated and unified fraud prevention and response both internally and externally. Furthermore, the position would support partnership engagement to increase access, build trust, and participate in conversations at the appropriate level needed for the program to effectively carry out initiatives across VA, including setting strategy, framework, policy, and other guidance within VA.

VA also recommends revising the reference in proposed section 325(b)(3) to refer instead to the VSAFE Fraud Hotline and VSAFE.gov website, instead of the current reference to the Veteran Identity Theft Helpline of the Department. In 2024, VA established the VSAFE Fraud Hotline (1-833-38V-SAFE) and VSAFE.gov website as a whole-of-Government front door designed in collaboration with others to provide

resources to protect and support Service members, Veterans, their families, caregivers, and survivors from fraud and scams.

VA has technical amendments to this section to ensure clarity of authority and purpose. We would be happy to work with the Committee to ensure such amendments are incorporated into the bill.

VA does not have a cost estimate for this section.

Section 3 would amend the home loan fee table in 38 U.S.C. § 3729(b)(2) by extending, from June 9, 2034, to June 23, 2034, the applicability of a provision requiring Veterans to pay existing fees when obtaining a loan guaranteed, insured, or made by VA.

VA does not support this section.

VA does not support this section because VA objects to using statutory loan fees associated with VA's Home Loan Program to pay for costs unrelated to Veterans' housing benefits, as doing so would be inconsistent with the Federal Credit Reform Act of 1990.

We note that the consultation requirements with VSOs and other non-Federal entities could raise issues regarding the Federal Advisory Committee Act (FACA). We do not believe the bill is intended to establish a Federal Advisory Committee subject to FACA, and absent further changes by Congress, VA would not interpret this to require the creation of such a committee.

VA does not have a cost estimate for this section.

H.R. 3185 Personnel Integrity in Veterans Affairs Act of 2025

Overall, VA supports this bill, subject to amendments and the availability of appropriations, but cites certain concerns.

Section 2 of this bill would amend 38 U.S.C. § 725, which requires VA to conduct an annual performance plan for each VA political appointee. Specifically, it would add a new subsection (c) that would require VA, not later than 30 days after the date of the completion of an annual performance plan under subsection (a), to submit the plan to Congress.

VA cites concerns with this section.

VA has some concern with this proposed section, particularly regarding the privacy of information that would be shared with Congress (and potentially the public as well), along with the definition of the term "political appointee." Further, the Office of Personnel Management has developed a new system that agencies are required to implement this fall; VA's implementation efforts in this area could be affected by this bill.

VA would appreciate the opportunity to meet with the Committee to discuss these concerns and identify technical amendments to address these concerns.

VA does not have a cost estimate for this section.

Section 3 of this bill would add a new section 729 to title 38, U.S.C. Subsection (a) of this new section would require VA, notwithstanding 5 U.S.C. § 3322 or chapter 74 of title 38, U.S.C. to take two actions with respect to a covered employee who is the subject of an eligible personnel investigation and who resigns, retires, transfers, or otherwise separates from employment with VA prior to the resolution of such eligible personnel investigation. Specifically, VA would have to continue such eligible personnel investigation until it is completed and, not later than 40 days after the date such eligible personnel investigation is completed, make a permanent notation of such eligible personnel investigation in the official personnel record file of such covered employee. Subsection (b) would prohibit VA, in carrying out an eligible personnel investigation, from considering the resignation, retirement, transfer, or any other separation from employment with VA of the covered employee subject to such eligible personnel investigation. Subsection (c) would require VA, prior to making a permanent notation in the official personnel record of a covered employee, to (1) notify the employee in writing within 5 days of the resolution of the eligible personnel investigation and provide such covered employee a copy of the adverse finding and any supporting documentation; (2) provide the covered employee with a reasonable time, but not less than 30 days, to respond in writing and to furnish affidavits and other documentary evidence to show why the adverse finding was unfounded (a summary of which would be included in any notation made to the personnel file of such employee); and

(3) provide a written decision and the reasons therefore to the employee at the earliest practicable date. Subsection (d) would state that a covered employee is entitled to appeal VA's decision to make a permanent notation to the Merit Systems Protection Board (MSPB) under 5 U.S.C. § 7701 and a Disciplinary Appeals Board (DAB) under 38 U.S.C. § 7464. Subsection (e) would require VA, if a covered employee filed an appeal with the MSPB, to make a notation in the official personnel record file of the covered employee indicating that an appeal disputing the notation is pending within 2 weeks of the date on which such appeal was filed. If VA is the prevailing party on appeal, within 2 weeks of the date the MSPB issued a decision, VA would remove the notation about the pending appeal from the official personnel record file of the covered employee. In the alternative, if the covered employee prevailed on appeal, VA would have to remove the notation and the notation of an adverse finding from the official personnel record file of the covered employee within 2 weeks of the date the MSPB issued the decision. Subsection (f) would define the term "covered employee" to mean a VA employee in the competitive service, the excepted service, or the Senior Executive Service (SES). It would define the term "eligible personnel investigation" to mean a personnel investigation that commenced not later than 60 days after the date on which the covered employee who was the subject of the investigation resigned, retired, transferred, or otherwise separated from VA; the term would include an investigation by an Inspector General, as well as a prospective investigation that may recommend an adverse personnel action (along with an actual adverse personnel action) as a result of alleged performance, misconduct, or for such cause as would promote the efficiency of the service under chapters 43 or 75 of title 5, U.S.C. U.S.C., or 38 U.S.C. § 501. This term would also include an internal investigation carried out by VA, including through the Office of Accountability and Whistleblower Protection, the Office of the Medical Inspector, and the VA General Counsel, as well as an investigation carried out by the head of any other Federal agency responsible for investigation, allegations of employee misconduct, including the head of the Office of the Special Counsel and the Equal Employment Opportunity Commission.

VA supports this section, subject to amendments and the availability of appropriations.

VA would appreciate having its own statutory provision in 38 U.S.C. § 729 to make a notation in an employee's personnel record file if they were subject to a personnel investigation and resigned, retired, transferred, or otherwise separated from VA employment prior to VA conducting or resolving an investigation resulting in an adverse finding.

The proposed section 729 would broaden the provisions of 5 U.S.C. § 3322 to include SES employees; it also would require VA to initiate or complete eligible personnel investigations not only when an employee resigned but also when they retired, transferred, or otherwise separated from employment at VA. Additionally, the proposed section 729 would provide a clear definition of a personnel investigation.

Proposed section 729 would permit covered employees to file appeals to the MSPB and the DAB. VA has concerns about DABs receiving these appeals. DABs can only determine whether major adverse actions, as listed in 38 U.S.C. § 7461(c)(2), involve a question of professional conduct or competence involving direct patient care or clinical competence. DAB members are patient care providers appointed under 38 U.S.C. § 7401(1), who serve on a voluntary basis as a collateral duty. DABs are not authorized to and not staffed to adjudicate matters that do not involve a question of professional conduct or competence involving direct patient care or clinical competence. Because appeals of action taken under proposed section 729 only require a determination that the agency complied with the provisions of the proposed section that provide due process to the covered employee, there is no matter of professional competence or patient care to be reviewed. Therefore, VA recommends only permitting VA employees to file an appeal with MSPB. Given the need for Veterans to receive timely care, VA recommends that patient care providers only serve on DABs when their clinical expertise is needed to assess the charges involving direct patient care or clinical competence. VA suggests amending the bill to allow all VA employees to file an appeal with MSPB or, in the alternative, allowing title 38 employees to file an agency grievance.

VA has other technical amendments and would welcome the opportunity to discuss these with the Committee. For example, VA suggests expanding the definition of “eligible personnel investigation” to also include prospective investigations that may recommend an adverse action taken under chapter 7 of title 38, U.S.C. to ensure inclusion of such adverse action procedures as those covered by 38 U.S.C. §§ 713, 714. Additionally, VA is concerned the 5-day deadline to notify the employee in writing following the resolution of an eligible personnel investigation is too short, especially when an employee has already separated from Federal service. VA may experience challenges in providing this information to employees who have already separated that could require VA more than 5 days to provide actual notice.

VA appreciates that this bill would hold employees accountable when they leave Federal service and looks forward to working together to address the recommended amendments.

VA does not have a cost estimate for this section.

H.R. 3455 VA Distributed Ledger Innovation Act of 2025

Section 2 of this bill would express the sense of Congress that Veterans deserve efficient, transparent, and secure access to their benefits and services, that distributed ledger technology (DLT) offers promising solutions for enhancing data integrity, security, and transparency, and that exploring innovative technologies (such as DLT) could significantly improve the allocation of benefits, management of insurance programs, and maintenance of records within VA.

Section 3 of this bill would require VA to conduct a comprehensive study on the feasibility, potential benefits, and risks associated with implementing DLT to improve

claims adjudication and prevent fraud, waste, and abuse in VA's benefits administration systems. Specifically, VA would have to examine how DLT could improve the clarity, traceability, and reliability of Veterans' benefits claims by securely recording key steps in the adjudication process, reduce the risk of fraudulent or inaccurate claims by verification processes, improve accountability in claims handling, and aid in identifying irregularities in benefits delivery. VA would be required to consult with DLT experts, VSOs, other Federal agencies with experience using DLT, and any other stakeholders as VA determined appropriate.

Not later than one year from enactment, VA would have to submit to Congress a report on the findings of the study. The report would have to include the findings of the study regarding the feasibility of implementing DLT in VA, a description of potential risks and benefits associated with the implementation of DLT, any recommendations regarding pilot programs or other initiatives that VA believes should be implemented to test the use of DLT in specific areas of VA operations (such as benefits distribution or insurance claims), and any legislative or administrative actions required to implement DLT in VA.

The term "distributed ledger" would mean a ledger that: is shared across a set of distributed nodes, which are devices or processes, that participate in a network and store a complete or partial replica of the ledger; is synchronized between the nodes; has data appended to it by following a specified consensus mechanism; is publicly accessible or restricted to a subset of participants; and may require participants to have authorization to perform certain actions or require no authorization. The term DLT would mean technology that enables the operation and use of distributed ledgers.

VA does not have views on this bill at this time.

The Department is assessing potential use cases for this technology and does not have views to provide at this time.

H.R. 3482 Veterans Community Care Scheduling Improvement Act

This bill would codify section 3101 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315; 38 U.S.C. § 1701, note) as a new 38 U.S.C. § 1703H, and it would add a new subsection (d) to this authority. This new subsection (d) would require VA, not later than one year from enactment, to, instead of the process currently set forth in subsection (a) (which requires VA to establish a process and requirements for scheduling appointments for VA and community care) to carry out a program though which a VA scheduler could schedule, for a Veteran and using an information technology (IT) system, an appointment for health care furnished through the Veterans Community Care Program (VCCP) and offered by a non-Department health care provider that participates in the VCCP and elects to participate in the program. VA would have to carry out this program through an existing agreement, if practicable. The program would have to allow a scheduler to view, search, and sort appointments by type of care, location, and date; to

schedule an appointment; to provide referral or authorization documents to a non-Department provider; and to perform any other functions VA determined necessary. Not later than 90 days after enactment, VA would have to prescribe regulations under this subsection; these regulations would have to include a directive to employees at VA medical centers (VAMC) to use the IT system under this subsection to schedule appointments instead of the process under subsection (a) whenever practicable. Not later than 90 days after enactment, VA would have to prescribe regulations that include a directive to employees at VAMCs to use the IT system to schedule appointments whenever practicable. Not later than 90 days after enactment, VA would have to plan and carry out an outreach campaign to encourage non-VA providers that participate in VCCP to participate in the program. VA would have to submit to Congress a report regarding each additional function determined necessary within 30 days of such determination. VA would have to provide a copy of the regulations VA would have to prescribe within 30 days of publication. VA would have to provide to Congress a copy of the plan for the outreach campaign within 30 days of formulating such a plan. Not later than 18 months after enactment, and every 6 months for the next 5 years, VA would have to submit to Congress a report on the operation of the program. This program would terminate 7 years after enactment.

VA supports the intent of this bill, subject to amendments and the availability of appropriations.

VA fully agrees that it can and should improve the patient scheduling experience. We are concerned, though, that specific legislation on this topic could prove problematic, as we have been and will continue to enhance scheduling capabilities, but this legislation could constrain our ability to address Veterans' needs and emerging issues.

VA previously established an integrated project team in 2022, and it appears this bill would duplicate some of the work done as part of that effort as well as other efforts. For example, VA is working to implement sections 131 through 134 of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022 (Division U of P.L. 117-328), which require VA to conduct a pilot program for Veterans eligible for VCCP to use a technology that has certain capabilities to schedule and confirm medical appointments with providers participating in the VCCP. Additionally, VA is already developing a scheduling approach that enables VA personnel and Veterans to view available appointments.

VA is also working to develop a self-service scheduling platform, but not all of the objectives underlying the bill could be resolved solely through technology improvements. For example, some specialties require referrals, as noted by the bill, but in these cases, VA has found it makes more sense and results in better patient outcomes if these referrals are coordinated with the patient's primary care provider, as there may be other steps (such as imaging, lab work, etc.) that need to be completed before an appointment with the specialist would be productive. Similarly, scheduling for specialty care appointments often requires consideration of specific prerequisites, such as specialized space, equipment, document reviews, diagnostic testing, preliminary evaluations, or imaging. Schedulers and patients likely do not have all of the knowledge and information required to determine which appointment slots would be appropriate given these variables. At the very least, the bill should be amended to provide flexibility for complex situations.

The problems facing VA in terms of scheduling appear to be technological and systems-based; they do not appear to be a lack of authority. VA recommends engaging in a human-centered design-based study that evaluates non-technical elements of the issue, such as position descriptions, staff incentives, agency policies, and additional required legislative changes (if any).

VA does not support the additional reporting requirements this bill would establish. VA can brief Congress as needed on these issues in lieu of these extensive reporting requirements.

VA notes several technical issues with the bill and would be happy to provide such assistance.

VA does not have a cost estimate for this bill.

H.R. 3483 Forcing Real Accountability for Unlawful Distributions (FRAUD) Act of 2025

This bill would amend 38 U.S.C. § 1703D, which generally establishes prompt payment standards for VA payment for hospital care, medical services, and extended care services to certain entities. Specifically, this bill would amend subsection (f), which sets for the information and documentation requirements, to require VA to use an IT system to analyze claims submitted to VA by health care entities or providers and through the health care claims enterprise solution to detect whether such claims are fraudulent, an overpayment, or other fraud, waste, and abuse. The bill would require the IT system to include nine specific functions. To carry out this requirement, VA would have to use the VA Franchise Fund established under title I of P.L. 104-204 (38 U.S.C. § 301, note). Not later than 2 years after enactment, and annually thereafter for 7 years, VA would have to submit reports to Congress regarding the operation of such IT system. The requirements established by this bill would cease to be effective on the date that is 7 years after enactment. The bill would define the term “community care network” (CCN) to mean a network established under 38 U.S.C. § 1703(h), and the term “health care claims enterprise solution” would mean the IT VA uses to process a claim submitted under chapter 17 by a health care entity or provider that is not part of a CCN. VA would have to carry out the amendments made by this bill not later than 1 year after enactment.

VA supports the bill, subject to amendments and the availability of appropriations.

We strongly support use of the Franchise Fund under an already existing Internal Control Support Center (ICSC), and we estimate the savings from preventing overpayments will more than pay for the technology and services to fully recover all costs. We believe that ensuring these reviews occur outside of Veterans Health Administration (VHA), such as through the ICSC, would preserve some level of independence. We do have some concerns with the bill, however. We note that the definitions of this bill would limit the review of claims to only those from non-CCN providers; effectively, this would only apply to providers or entities that have entered into a Veterans Care Agreement under 38 U.S.C. § 1703A, academic affiliates, and other local contracts or agreements, as well as entities seeking reimbursement from VA for care VA did not authorize in advance. In this context, it does not appear the IT system would review many claims and potentially not those at high risk for fraud or overpayment. For example, academic affiliates generally have a long history of collaboration with VA, have dual-appointed personnel between VA and the affiliate, and are generally established locally. Local contracts or agreements are often paid through facilities, not through a centralized system, so it is unclear that the IT system would be configured easily to receive and review such claims.

Finally, we note that the provision stating that the amendments made by this bill would cease to be effective on the date that is 7 years after enactment is unclear. Technically, this provision only states that the use of an IT system to analyze claims for fraud, overpayment, or other fraud, waste, and abuse would cease to be effective; in practical terms, then, VA could (and would) still monitor claims for these purposes but would not be compelled to use an IT system for that purpose. The reporting requirements described above would also cease to apply. Absent further amendment to this language, VA would interpret this provision as described here.

VA would like to note there are no mentions of monetary penalties or administrative actions for providers who submit fraudulent claims, and the bill is silent on the limitation period for pursuing a fraudulent claim from the date the violation occurred. VA would like to note that this proposal should focus on detection of fraud, waste, and abuse across all VHA programs, not just VCCP. VA has other technical comments on this bill as well and would appreciate the opportunity to meet with the Committee to discuss this bill.

As VA has previously expressed to the Committee, VA would welcome the opportunity to discuss other potential amendments to section 1703D to clarify the scope of the applicability of this requirement. As written, section 1703D applies to all claims for payment under chapter 17; there are some variations in terms of timely filing for different programs under this authority, though. VA has also encountered situations where it has needed additional flexibility for these standards. VA's proposed amendments could provide VA enhanced authority to combat fraud, waste, and abuse. Consistency across these programs would also reduce administrative burdens on VA, while also creating parity with other Federal programs (such as Medicare and TRICARE).

VA does not have a cost estimate for this bill.

H.R. 3494 VA Hospital Inventory Management System Authorization Act

This bill would authorize VA to purchase or develop for VHA a cloud-based information technology system for managing inventory (including expendable and nonexpendable items) and implement such system. If VA purchased or developed a system, VA would have to carry out pilot program at one VHA facility before implementing the system throughout VHA. The pilot program would have to be designed to determine whether the functions of the system are satisfactory. Section 2(c) would authorize to be appropriated $50,000,000 to carry out this section. If VA purchased or developed a system, VA would have to complete the implementation of the system by not later than 3 years after the date of enactment.

VA supports this bill, subject to amendments and the availability of appropriations.

VA supports the effort to modernize VA's current inventory management systems and improve overall efficiency in supply chain management.

VA agrees an Enterprise Inventory Management System is necessary but recommends deferring the authorization of a specific amount until a detailed cost estimate is prepared. The VA Office of Information and Technology, in coordination with relevant offices, should realign requirements with modern capabilities using a commercial-off-the-shelf tool. Providing a fixed authorization of appropriations of $50 million, without evaluating new technologies and a streamlined system risks misjudging costs and misrepresenting scope. Focusing on interoperability, modular design, and commercial solutions will yield a more accurate and justifiable estimate that reflects true mission needs and fiscal responsibility.

VA does not have a cost estimate for this bill.

H.R. XXXX Prohibiting the Collection of Health Care Copayments After a 2-Year Period in Certain Situations

This bill would amend 38 U.S.C. § 1730A, which generally prohibits VA from collecting copayments from certain Veterans for the receipt of hospital care, medical services, and medications. Specifically, under a new section 1730A(a)(2), VA would be prohibited from requiring a Veteran to make any copayment for the receipt of hospital care or medical services after the end of the 2-year period beginning on the date on which the Veteran received such care or services if the Veteran's failure to make such copayments was attributable to the failure of a VA employee, official, or information system to process information provided by or on behalf of the Veteran within applicable timeliness standards established by VA. Under a new section 1730A(a)(3), VA would be prohibited from requiring a Veteran to make a copayment in an amount that exceeds $2,000 for the receipt of hospital care or medical services if the amount of the copayment is attributable to an error on the part of a VA employee, official, or information system.

VA supports the intent of this bill to ensure that Veterans are not held financially liable for copayment debt exacerbated by a longstanding administrative error made by VA but cites concerns with the bill as written.

VA supports ensuring Veterans are not held financially liable for copayment debt exacerbated by a longstanding administrative error made by VA but cites concerns with the bill as written. First, it is unclear what the term "attributable" means in this context; the same term is used in 38 U.S.C. § 5302B in a similar context, but it is not evident that Congress intends the meaning of this term in these two different statutes to be the same. "Attributable" could be analogous to the concept of contributory negligence, which generally holds that a party's liability may be reduced (or barred entirely) for its own errors or omissions. In this context, if a VA employee made a minor error, even one that was corrected but only at a later point in time, a Veteran could argue that the failure to pay was "attributable" to VA's error. We do not believe that is the intended result of this legislation. If Congress does not otherwise amend this legislation to clarify what it means by "attributable", VA would interpret this term to mean that the prohibition in proposed section 1730A(a)(2) would apply not to any error on the part of VA, but only to an error that prevented the Veteran from receiving notice or making payment.

This concern also applies to the proposed section 1730A(a)(3), although this provision is also unclear in terms of its applicability. Copayment amounts are generally set forth in law and regulation based on the services provided. Except for hospital care—and even then, only a very long period of inpatient care would potentially qualify—could result in a single copayment of more than $2,000. In this context, it is unclear how an amount in excess of $2,000 would be "attributable" to a VA error. It is possible that an error might result in VA not assigning multiple copayments (such as mis-identifying a Veteran as having a service-connected condition) that collectively could exceed $2,000 in liability, but as written, the bill appears to only prohibit the collection of a single copayment in excess of $2,000. If that is not the drafter's intent, we

believe further amendments would be needed. We also note that the $2,000 amount is not indexed to increase over time; if Congress were to adopt such a limit, we recommend including a provision that would automatically increase this amount annually to account for inflation.

We note for awareness that the proposed changes to section 1730A(a) would only apply to copayments for hospital care and medical services, which could be applied under section 1710(f) and (g), and to copayments for medications (under 38 U.S.C. § 1722A); it would not also prohibit the collection of copayments for walk-in care (under 38 U.S.C. § 1725A) or for extended care services (under 38 U.S.C. § 1710B). If it is the drafter's intent to also exempt copayments for these services, the bill would require further amendment.

As a technical matter, VA recommends this be included as a new section 1722D to title 38, U.S.C., instead of as an amendment to section 1730A. Sections 1722A, 1722B, and 1722C all set forth limitations on copayments, so including this limitation here would make sense in terms of organization of the Code. VA would appreciate the opportunity to further discuss the bill's intent and provide technical assistance on this legislation as needed.

VA does not have a cost estimate for this section.

H R. XXXX Modernizing VA's Electronic Health Record (EHR) System

This bill contains 15 substantive sections.

Section 2 would provide two definitions applicable throughout this bill. The term "appropriate congressional committees" would mean the Committees on Veterans' Affairs of the Senate and the House of Representatives, as well as the Committees on Appropriations of both chambers. The term "Electronic Health Record Modernization Program" (EHRMP) would mean any activities being carried out, as of the date of enactment, by VA to procure and implement an electronic health record system to replace significant medical functions or applications of the Veterans Information Systems and Technology Architecture (VISTA).

VA has no objection to this section.

VA has no objection to this section as it would simply define terms for purposes of this bill.

This section would result in no cost on its own.

Section 3(a) would authorize VA to carry out a program to modernize VA's electronic health record (EHR) system, either by making changes to the EHRMP as in

effect on the date of enactment or by establishing a new program. Section 3(b) would provide that if VA carried out the program under subsection (a), the program would have to be designed to fulfill 10 purposes, including: (1) improving the quality of hospital care, medical services, and nursing home care VA furnishes; (2) increasing the productivity, efficiency, and satisfaction of VHA employees; (3) improving the experience of patients enrolled in VA care; (4) reducing unnecessary variation in care delivery; (5) improving the quality, consistency, and management of data created or received by VHA and data generated by or exchanged with a non-VA health care provider; (6) increasing the interoperability of VA's EHR systems and health information technology systems; (7) increasing the amount of medical collections under 38 U.S.C. § 1729A; (8) supporting and strengthening research and development activities; (9) protecting the personal information of Veterans, patients, and other EHR system users; and (10) such other purposes as VA determines appropriate.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA acknowledges the importance of the EHRM effort as a critical priority for VA, and we generally agree with the intent of this section, but we believe there is an opportunity for VA and the Committee to collaborate to address technical concerns with provisions in this section. We appreciate the Committee's willingness to continue working together to improve this legislation.

VA does not have a cost estimate for this section.

Section 4(a) would provide that, if VA carries out a program with respect to EHRM, the Deputy Secretary would have to be directly responsible for and oversee EHRM, direct resources and designate officials to support EHRM, and coordinate with the Under Secretary for Health (USH) and the Assistant Secretary for IT on such efforts. The USH would have primary responsibility for determining strategy and objectives for EHRM, exercise responsibility for the implementation and operation of any functions assigned by the Deputy Secretary, and coordinate with the Deputy Secretary, the Program Executive Director, and the Assistant Secretary for IT. The Assistant Secretary for IT would be responsible for carrying out IT activities in accordance with provisions in title 38, title 40, and title 44, U.S.C.; exercise responsibility for the implementation and operation of any functions assigned by the Deputy Secretary; and coordinate with the Deputy Secretary, the Program Executive Director, and the USH. The Deputy Secretary, in consultation with the USH and the Assistant Secretary for IT, would have to determine the distribution or assignment of responsibilities for defining and elaborating requirements, implementation schedule, system design and configuration, workflow, system usability, change management, training, and other functions. Section 4(b) would require that the Program Executive Director exercise responsibility for the implementation and operation of assigned functions, oversee work performed by

contractors related to the EHRM effort, coordinate with the USH, Assistant Secretary for IT, and any other relevant organizational subdivisions in VA.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

Similar to section 3, VA agrees with the importance of this section and looks forward to working with the Committee to address technical concerns.

VA does not have a cost estimate for this section.

Section 5(a) would require VA, not later than one year from enactment, to ensure that each covered contract includes, or is modified to include, a clause prohibiting covered information from being monetized, sold, or otherwise misused by any contractor (including sub-contractors or affiliates) and issue a directive or other policy providing guidance to employees and VA contractors on how to identify the monetization, sale, or misuse of covered information to ensure contractors comply with these requirements. Section 5(b) would define the term “covered contract” to mean a VA contract that provides for the handling of covered information that is in effect as of the date of enactment or entered into after the date of enactment. The term “covered information” would mean protected health information or personally identifiable information and includes information protected under 5 U.S.C. § 552a, 38 U.S.C. §§ 5701 or 7332, 45 C.F.R. parts 160, 161, and 164, and any other provision of law, as determined by VA.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of ensuring the protection of Veterans’ personal and protected information and would welcome the opportunity to work with the Committee to ensure this section includes effectively addresses this concern.

VA does not have a cost estimate for this section.

Section 6(a) would require the USH to conduct an enterprise inventory of core clinical and business processes relevant to the EHRM program, evaluate and compare these workflows against relevant health care industry best practices and clinical practice guidelines, and establish a baseline of clinical workflows for VHA. Section 6(b) would require the USH to incorporate this baseline into the EHRM program. Section 6(c) would require the USH to establish a process to monitor and control variations from this baseline and evaluate progress relative to such baseline. Section 6(d) would require the USH to establish national standards for VHA pertaining to the implementation and

adoption of the EHR system for order sets, user roles, medical devices, system interfaces and connectivity of medical devices, and any clinical process not otherwise described that the USH determines appropriate.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

Similar to section 3, VA agrees with the importance of this section and looks forward to working with the Committee to address technical concerns.

VA does not have a cost estimate for this section.

Section 7 would require VA, not later than 90 days after enactment, acting through the USH, to establish standard health care quality metrics for purposes of evaluating the provision of health care during the implementation and adoption of the EHR system. Upon enactment, VA would have to continue making publicly available the results of the Strategic Analytics for Improvement and Learning Value Model with respect to all medical facilities where the EHR system pursuant to the EHRM program is active.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

Similar to section 3, VA agrees with the importance of this section and looks forward to working with the Committee to address technical concerns.

VA does not have a cost estimate for this section.

Section 8 would require VA, if VA determines any purpose to be appropriate under section 3(b)(10), to submit to Congress a report, not later than 30 days after such determination, with a description of the purpose.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of this reporting requirement and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee’s concerns.

VA does not have a cost estimate for this section.

Section 9(a) would require VA, not later than 90 days after establishing a baseline of clinical workflows pursuant to section 6(a), to submit to Congress a report that includes an identification of such baseline. Section 9(b) would require VA, not later than 90 days after the date on which VA establishes the national standards pursuant to section 6(d), to submit to Congress a report that describes such standards.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of these reporting requirements and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Section 10 would require VA, not later than 90 days after the date on which it establishes the health care quality metrics described in section 7(a), to submit to Congress a report that includes an identification of such metrics.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of this reporting requirement and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Section 11 would require VA, not later than 90 days before a medical facility is scheduled to implement the EHR system pursuant to the EHRM program, to submit to Congress a report provided by the medical facility director, in consultation with the facility chief of staff and the director of the Veterans Integrated Service Network, that includes a detailed description of the resources provided to the medical facility, and the estimated resources still required, to implement the system successfully.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of this reporting requirement and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Section 12 would require VA, not later than 120 days after the first day of each fiscal year that begins after the date of enactment, and through the period beginning 10 years after the date of enactment, to submit to Congress a report on VISTA. The report would need to include information on seven different specific elements.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of this reporting requirement and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Section 13 would amend section 503 of the Veterans Benefits and Transition Act of 2018 (P.L. 115-407) to require VA to include in the quarterly updates on the EHRM program additional data on: user adoption and employee satisfaction with the EHR system; employee retention and turnover at facilities using such system; data on downtime, performance disruptions, or impaired functionality of such system; data on the impact of such system on revenue and collections; data on ticket resolution; and a list of any credits, reimbursements, or monies provided by a contractor under the EHRM program or invoice deductions or withholdings taken by VA from such contractor due to failure to meet the terms of a service level agreement or other terms and conditions of the contract. Section 13 would further amend this law by expanding the events requiring notice to Congress; specifically, the bill would include among events requiring notice any submission of a cure notice, letter of concern, or other official communication by VA to a contractor concerning contract noncompliance or corrective action, as well as the official response of the contractor.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of these reporting requirements and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Section 14 would require VA, not later than 1 year after enactment, to submit to Congress a report that includes a copy of the contract clause required by section 5(a), the guidance required by section 5(b), and a summary of any other actions taken to comply with section 5.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of these reporting requirements and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Section 15(a) would require VA, not later than 90 days after the date on which a VA official takes certain actions, to submit to Congress notice of such action. These actions would include the designation of any official or office by the Deputy Secretary pursuant to section 4(a)(1)(A)(iv), the designation of any responsibility by the Deputy Secretary pursuant to section 4(a)(1)(D), and any action related to the reorganization of a program pursuant to section 4(a)(1) or (2). Section 15(b) would require VA, not later than 1 year after enactment, to submit to Congress a report that includes a description of any legislative changes VA determines necessary to carry out the responsibilities with respect to the EHRM program regarding organization, hiring or compensation authorities, appropriations, or related matters, as determined by VA.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of these reporting requirements and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Section 16 would require VA, not later than 90 days from enactment, to submit to Congress a report that describes VA's clinical decision making structure and efforts to achieve a more uniform clinical decision making structure pertaining to the EHRM program, the criteria or metrics used by VA to measure improvements in the EHRM program, the most recent data reported pursuant to such criteria or metrics from each VA medical facility using the EHR system implemented pursuant to the EHRM program, a description of steps being taken by VA to achieve performance goals relevant to such criteria or metrics, and the standard readiness task list used in VA medical facilities to prepare for implementation of the EHR system pursuant to the EHRM program.

VA supports the intent of this section, subject to amendments and the availability of appropriations.

VA agrees with the importance of this reporting requirement and would welcome the opportunity to work with the Committee to ensure the information reported can be developed by VA and would address the Committee's concerns.

VA does not have a cost estimate for this section.

Conclusion

This concludes my statement. We would be happy to answer any questions you or other Members of the Subcommittees may have.