STATEMENT OF PHILLIP CHRISTY
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OFFICE OF ACQUISITION, LOGISTICS, AND CONSTRUCTION (OALC),
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
U.S. HOUSE OF REPRESENTATIVES

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Chairwoman Kiggans, Ranking Member Mrvan and other Members of the Subcommittee: thank you for inviting us here today to present our views on several bills that would affect VA programs and services. Joining me today is Dr. Leslie Sofocleous, Executive Director, Electronic Health Record Modernization (EHRM) Integration Office's (IO) Program Management Office (PMO), Ms. Shana Love-Holmon, Acting Assistant Secretary, Office of Enterprise Integration (OEI), and Catherine Cravens, Chief of Staff, Office of Information and Technology.

H.R. 592 – Electronic Health Record Modernization Improvement Act

Section 2(a) of the bill would prohibit the Secretary of Veterans Affairs from commencing a program activity at a Veterans Health Administration (VHA) facility where such activity is not being carried out as of the date of enactment until the Secretary of VA submits to the House and Senate Committees on Veterans' Affairs written certification that the electronic health record (EHR) system has met each of the following improvement objectives prior to implementation: (A) a monthly uptime for the electronic health record system of 99.9% for 4 sequential months, and (B) the completion of all improvements or modifications of the EHR system required to be completed pursuant to a contract, task order, modification or other similar instrument, entered into before the date of the enactment of this Act.

VA does not fully support section 2(a) of this bill. Specifically, VA does not support the prohibition of commencing program activities until the completion of section 2(a), which would pause program activities and cause significant cost impacts. However, adjustment to the "program activities" definitions outlined in section 2(c) would address this issue by allowing certain activities that support early pre-deployment to start, while limiting the commencement of full deployment.

VA suggests the following:

- Modification: Update section 2(a)(1) to read: "(1) Prohibition. —The Secretary of Veterans Affairs may not ***deploy the electronic health record system*** at a facility of the Veterans Health Administration until the date on which the Secretary of Veterans Affairs…"

VA supports section 2(a)(2)(A) of this bill, in part. Improving system reliability and availability remains a VA focus. Corrective actions within the Cerner database configuration have resulted in more than 6 months of system uptime above 99.9% without a complete outage. As written in section 2(a)(2)(A), if the 99.9% metric dropped the month prior to deployment then VA would not have the 4 sequential months prior to deployment.

VA suggests the following:

- Modification: Update section 2(a)(2)(A) to read: "(A) monthly uptime for the electronic health record system of 99.9% for four sequential months ***or documented risk mitigation and certification for deployment under 99.9%***.

VA does not support section 2(a)(2)(B) of this bill. The Electronic Health Record Modernization Integration Office (EHRM-IO), VHA and Office of Information Technology have worked collaboratively to assess and remediate a subset of identified system challenges and continue work to expediently resolve all identified and validated issues.

There are many improvements and proposed modifications that are already on task orders. These are all in flight, with varying dates of completion – some of which extend beyond 2023. Many of these improvements are important, but not essential, for a future go-live. To require all system modifications to be completed in their entirety before allowing resumption of any program activities would introduce significant delay. Additionally, given the complexity of heath care and potential policy changes it is anticipated that ongoing additional changes will be required. While all system modifications may not be completed prior to deployment, mitigations should be in place.

VA suggests the following:

- Modification: Update section 2(a)(2)(B) to read: "The completion of improvements or modifications of the electronic health record system ***as agreed upon by the VA Deputy Secretary, VA Under Secretary for Health, EHRM-IO and VISN leadership***."

Section 2(b) would require the VHA facility director, the facility chief of staff, and the director of the VISN in which such facility is located to each submit written certification that: (1) the build and configuration of the EHR system, as proposed to be carried out at such facility, are accurate and complete; (2) the staff and infrastructure of such facility are adequately prepared to receive such system; and (3) the implementation of such system will not have significant, sustained adverse effects on patient safety, patient wait-times for medical care, or health care quality at such facility.

VA supports section 2(b) of this bill, with amendments. VA uses a consistent process for each deployment of the EHR system to approve the decision to go-live. Infrastructure readiness is assessed through the current state review (CSR) process and addressed before deployment operations begin. Deployment kickoff starts 13

months prior to go-live, and there are weekly working deployment meetings with the facility, Change Leadership Team and change sponsor to walk through outstanding issues. Approximately 4-8 weeks before go-live, VHA, EHRM-IO, Veterans Integrated Service Network (VISN) and site leadership begin to meet weekly to review the readiness checklist and areas of concern. Lastly, a go/no-go decision meeting with VHA, EHRM-IO, the VISN and the facility is held no later than the week before go-live based on the elements of the readiness checklist, along with the people, process and technology elements of readiness for personnel at the site. The written certification outlined by the bill would support the existing concurrence process.

VA suggests the following:

- Modification: Update section 2(b)(1) to read: "(1) the build and configuration of the EHR system, as proposed to be carried out at such facility, are accurate and complete ***based on the approved enterprise standard***."
- Modification: Update section 2(b)(3) to read: "(3) the implementation of such system will not have *known* significant, sustained adverse effects on patient safety, patient wait-times for medical care, or health care quality at such facility."

Section 2(c) includes definitions for EHR and program activity. VA supports this section with amendments.

- Modification: Update section 2(c)(2) to read: "(2) The term ''program activity'' means any local or national workshop and/or training activities under the Electronic Health Record Modernization Program before the certification of the electronic health record system."

H.R.608 – Terminate VA's EHRM Program

Section 1(a) of the bill would require the Secretary of Veterans Affairs to terminate the Electronic Health Record Modernization (EHRM) program. VA opposes section 1(a) of this bill. Without a modern EHRM program, VA would not have an interoperable, longitudinal record with the Department of Defense and community care partners; therefore, VA could not provide the Veterans with an electronic health record (EHR) that tracks the first day of service delivery with DoD to through the transition to VA, thereby limiting care and services to the Veteran.

Modernizing the electronic health record (EHR) system is critical to providing the best care for Veterans and facilitates advancements in delivery of care in the following ways:

1. Increased access to new technologies both now and in the future.
2. Standardized workflows and systems across VA and to automate and integrate manual processes, resulting in efficiencies and better service and care to Veterans.

3. Standardized EHR system reducing training and delivers a more integrated and skilled workforce.
4. Facilities use of telehealth services to share clinical expertise across VA's expansive health care delivery network.
5. Improved scheduling and smarter clinical decision support, driven by a comprehensive view of a Veteran's medical history and service record.
6. Reduced sustainment costs of an enterprise EHR system.

If enacted, section 1(a) would have additional costs. VA may need to initiate "stop work" and/or termination activities depending on timing of enactment Claims resulting from government stop work and/or termination activities could vary by a wide range, are contract dependent, and would need to be evaluated on a case-by-case basis to determine the costs to the government.

Section 1(b) would require the Secretary to carry out the following activities within 180 days of enactment: (1) Abolish the Electronic Health Record Modernization Integration Office (EHRM-IO); (2) Transfer any activities or functions carried out under such office that are not terminated pursuant to this section to the Veterans Health Administration or the Office of Information and Technology of the Department of Veterans Affairs; (3) With respect to each facility of the Veterans Health Administration that uses the EHR system implemented pursuant to the EHRM Program, revert the facility to instead use the Veterans Health Information Systems and Technology Architecture (VistA) and the Computerized Patient Record System (CPRS) of the Department.

VA opposes section 1(b) of this bill. VA's existing EHR system, VistA, is almost 40 years old. In its current state, however, VistA is comprised of 130 distinct instances and cannot deliver the benefits of a modern, enterprise system or provide a seamless health record system from military service to Veteran status. Previous attempts to upgrade VistA have been unsuccessful; there is potential risk in repeated efforts.

Integration with DoD would not be as strong on separate platforms and there would be decreased access to innovations being driven by a commercial provider. Moreover, critical solutions that have been deployed to enhance interoperability between VA and DoD, such as the Joint Health Information Exchange (JHIE), are reliant on the joint platform and do not have a replacement. Previous solutions that enabled interoperability have been sunsetted. Significant resources and funding would be required to develop a replacement platform that could effectively and efficiently handle the clinical data exchange volumes and adheres to current and upcoming regulatory requirements. Connections with national health care organizations that enable health information exchange with community providers would also have to be reestablished.

Lastly, section 1(b) would have significant personnel impacts across the enterprise. EHRM-IO alone has approximately 300 federal staff, in addition to contractors, nonpermanent staff and staff hired to VHA, OIT and EHRM in support of the EHRM program. The timeframe for this change in personnel is extremely narrow and will not afford VA the time needed to ensure personnel are appropriately relocated

to positions elsewhere within the Department and would result in significant loss in institutional knowledge and subject matter expertise.

Given the breadth and complexity of the impacts of EHRM termination, VA does not have an estimate for section 1(b) of this bill. However, VA anticipates cost considerations to include (1) resources required to sustain the existing EHR solution at deployed sites; (2) additional costs for VA to execute a plan to revert back to VistA, which would not be feasible within the specified 180-day time frame; and (3) significant additional costs and resourcing required to modernize VistA. Appropriations language would also need to be updated, since the EHRM program is funded as a separate appropriation.

H.R.1659 – VA IT Modernization Improvement Act of 2023

This bill would direct the VA Chief Acquisition Officer (CAO) to contract for the independent verification and validation (IV&V) of certain modernization efforts of the Department within 90 days of enactment. It prescribes the characteristics and experience (linked to the Department of Defense Acquisition Program) required of entities eligible to compete and details the oversight functions to be accomplished under the IV&V contract.

The bill defines "covered programs" to include ongoing VA modernization efforts, e.g., EHRM, Supply Chain Modernization, Financial Management Business Transformation (FMBT), Human Resources (HR) Systems and Veterans Benefits Management Systems (VBMS) and excludes any entity currently performing or having performed on a contract for VA within the 5 years preceding issuance of the solicitation, including contracts or subcontract related to a covered program. The bill also institutes a new annual reporting requirement and directs the CFO to work with heads of department offices to ensure the amount of the IV&V contract awarded is paid proportionately from respective appropriations.

VA supports this bill if amended, and subject to the availability of appropriations. Section 2(a) of the bill directs VA's CAO not later than 90 days after the date of the enactment of this Act to enter into a contract with an eligible entity under subsection (b) to carry out the oversight functions described in subsection (c). VA strongly supports the importance of and need for IV&V for VA modernization programs. Although VA does not object to the direction given to the CAO, it may be more appropriate "*to direct the Secretary of Veterans Affairs*" given that "covered programs" defined in the bill, e.g., EHRM, FMBT, SC Modernization and H.R. Systems, have major IT components and impact across the enterprise.

The requirement in section 2(a) to, "enter into a contract within 90 days," is not sufficient time to conduct market research, identify qualified entities and award a contract. VA proposes the following for section 2(a): "*conduct market research to identify one or more eligible entities as described in subsection (b).*" Initiation of market research within

90 days is feasible; awarding a large and comprehensive IV&V contract or contracts within a 90-day timeframe is not realistic.

Alternatively, VA suggest the language and format of Public Law 114-286, The Faster Care for Veterans Act of 2016. Specifically,

2(a) CONTRACTS –

- *(1) AUTHORITY. –Not later than 120 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall enter into a contract with an eligible entity under subsection (b) to carry out the oversight functions described in subsection (c).*
- *(2) NOTICE OF COMPETITION. -Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue a request for proposals for the contract described in paragraph (1). Such request shall be full and open to any eligible entity as described in subsection (b) and has the capacity detailed in subsection (c).*
- (3) *SELECTION. -Not later than 120 days after the date of the enactment of the Act, the Secretary shall award a contract to one or more contractors pursuant to the request for proposals under paragraph (2).*

Section 2(b) ELIGIBILITY. – describes the characteristics of an eligible entity.

VA supports section 2(b) of this bill, with amendments. VA notes the criteria in paragraph (1) coupled with the exclusion in paragraph (2) may severely limit the pool of eligible entities and potentially frustrate VA's ability to award a contract. Paragraph (2) as written, will likely exclude many vendors and could result in legal challenges. VA suggests replacing the proposed text with the following:

> *"(2) performed the work at a satisfactory or better level as indicated by the past performance information in the Contractor Performance Assessment Reporting System for any contract used to demonstrate eligibility under subsection (b)(1)*)."

Section 2(c) FUNCTIONS. – describes the oversight functions to be carried out by the contract awardee. Paragraph (3) of subsection 2(c) currently reads – (3) Conducting continuous oversight of the activities carried out under, and the system associated with each covered program, including oversight of the status, compliance, performance, and implementation of recommendations…

VA supports section 2(c) of this bill, with amendments. VA recommends revising paragraph (3) of subsection 2(c) to acknowledges the need for a VA adjudication process regarding the IV&V findings and recommendations. VA recommends revision as follows:

> "Conducting periodic oversight of the activities carried out under, and the system associated with each covered program, including oversight of the status,

compliance, performance, 'and adjudication' and implementation of recommendations…"

VA recommends amending subsection 2(c) (3) subparagraph (A) to read:

"(A) Program management, including *but not limited to,* management of the governance of the program…A comprehensive IV&V assessment would incorporate a broader range of assessment areas than stated in the proposed text.

Subparagraph (F) of subsection 2(c) (3) lists several items with respect to associated systems for evaluation. However, validation of the measurable benefit of the system (i.e., business impact, outcomes, value, return on investment…) is not listed. These measures of benefit would be a subset of the overall set of measures of effectiveness for the program.

VA recommends adding "vi" validation of measurable benefit of the system at the end of subparagraph (F) and following that a subparagraph (G) Change management approach. Change management and realization of program value must be tightly connected, i.e., the connection to the proposed value/impact/business-functional outcomes of the program. The revised paragraph (3) would appear as follows:
"(3) Conducting continuous oversight of the activities carried out under, and the systems associated with, each covered program, including oversight of the status, compliance, performance, and implementation of recommendations with respect to, for each covered program, the following:

(A) Management, including governance, costs, and implementation milestones and timelines.
(B) Contracts for implementation, including financial metrics and performance benchmarks for contractors.
(C) Effect on the functions, business operations, or clinical organizational structure of the health care system of the Department of Veterans Affairs.
(D) Supply chain risk management, controls, and compliance.
(E) Data management.
(F) With respect to such systems, the following:
(i) Technical architectural design, development, and stability of the systems.
(ii) System interoperability and integration with related information technology systems.
(iii) System testing.
(iv) Functional system training pro-
vided to users.
(v) System adoption and use.
(vi) Measurable benefit of the system as measured by the program's approved base line Objective Key Results (OKR) and Key Performance Indicators (KPI), (i.e., business impact, outcomes, value, ROI"
(G) Change Management approach effectiveness"

VA believes these amendments, if adopted, would strengthen the bill consistent with congressional intent.

Subsection 2(e) AWARDED AMOUNTS.—Not later than 90 days after the date on which the Chief Acquisition Officer of the Department enters into the contract under subsection (a), the Chief Financial Officer of the Department, in coordination with the heads of such office of the Department responsible for the management of a covered program, shall ensure that amounts awarded to an eligible entity under such contract are derived, in proportionate amounts, from amounts otherwise authorized to be appropriated for each such office of the Department, respectively. VA supports subsection 2 (2e) of this bill and has no objection to this provision.

Subsection 2(f) DEFINITIONS – list key terms and authorities that are referenced throughout the bill, e.g., "covered program." The bill identifies the Electronic Health Record Modernization Program (EHRM), the Financial Management and Business Transformation Program (FBMT), the Veterans Benefits Management system (VBMS), any program related to supply chain modernization, and any program related to the modernization of information technology systems associated with human resources as the "covered programs".

VA offers for consideration that the scope of this undertaking is likely going to create Organizational Conflicts of Interest (OCI) at a level which will dissuade many vendors. VA currently has IV&V contracts in place for EHRM and FMBT. It is unclear how enactment of this law would affect existing contracts. Ideally, VA would have an in-house team with the expertise to conduct IV&V of its major modernization efforts. Contracting for those services as VA builds internal capacity makes practical sense and will help to expedite the resulting delivery of benefits and services to Veterans, their caregivers and family members. VA does not have cost estimates for this bill but anticipates an IV&V contract of this size would be extremely expensive. Appropriate and timely funding of this bill is critical.

H.R. 1658 Manage VA Act

H.R. 1658 would add 38 U.S.C. § 307A which would establish in the Department of Veterans Affairs (VA) an Under Secretary for Management (USM). The new subsection would establish a new USM to serve as the Chief Management Officer of the Department, reporting directly to the Deputy Secretary and as a principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of Veterans operations and programs. The USM responsibilities would include budget and finance, procurement, human resources, information technology, management integration and transformation, development of transition and succession plans, certain GAO reporting, management of the Office of Enterprise Integration, and the supervision of the Director of Construction and Facilities.

VA does not support this bill. Integrating the Department's efforts and creating operational jointness in our support for Veterans, their families, caregivers and survivors is essential to Veterans choosing VA for care, benefits and services. VA appreciates that this bill generally seeks to address management, integration, and transformation issues within the Department, however, VA already has established and continues to mature its joint oversight and decision-making roles and processes, focused on the integrated customer journey it needs to work toward these outcomes. Together these are successfully driving the integration envisioned by this legislation without the need for a new position such as an Undersecretary for Management.

Oversight and Accountability. The VA Deputy Secretary serves as the Department's Chief Operating Officer, supported by a robust governance structure that ensures the Chief Executive Officer (CXO) roles (i.e., Chief Acquisition Officer, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, and Chief Experience Officer) are brought together regularly for joint decision making. The Deputy Secretary chairs the VA Operations Board, which serves as the most senior operations implementation management body for the Department providing oversight of the implementation and execution of the Secretary's strategic direction. Its purpose is to enable the Deputy Secretary to critically evaluate evidence-based, risk-informed recommendations about the operational implementation and execution of the Department's Strategic Plan and provide Department-level oversight and operational direction of key enterprise programs (e.g., Electronic Health Record Modernization (EHRM), Financial Management Business Transformation (FBMT), Supply Chain transformation), to support well integrated operational plans and impactful outcomes. Department of Veterans Affairs Operations Board (VAOB) membership includes all the CXO roles as well as the Administrations and other key VA leaders.

Robust Governance with Integrated Customer Focus. VA already has implemented robust governance to drive jointness and integration, as outlined in VA Notice 22-15 (September 15, 2022). The purpose of the VA Governance is to enable evidence-based, risk-informed decision-making that advances the mission of VA and enables VA to meet its promise to provide timely access to world-class health care and earned benefits and services to all Veterans.

Departmental governance includes the VA Executive Board chaired by the Secretary and the VA Operations Board chaired by the Deputy Secretary that ensure critical risks and opportunities are discussed by all leaders from across VA and result in well-integrated decisions that matter to Veterans. These two boards are supported by the Evidence Based Policy Council, which ensures policy options are developed jointly and founded on rigorous evidence, and the Investment Review Council, which ensures investment decisions reflect an enterprise-wide view of what will make the biggest impact for Veterans.

Likewise, VA has one of the most outstanding customer experience offices in the Federal Government, the Veterans Experience Office (VEO). Our Chief Experience

Officer is a key partner within our enterprise governance framework, facilitating human centered design efforts that ensure the Veteran's journey through VA is seamless and that each policy and operational decision impacting one of VA's components naturally contributes to a well-integrated customer experience. The Assistant Secretary for Enterprise Integration serves as the VA accountable executive for enterprise management and governance in support of the Office of the Secretary. Serving as the Governance Executive Secretariat for these four principal Department-level Governance bodies.

VA does not have a cost estimate for this bill.

H.R. XXX – VA Supply Chain Management System Authorization Act

This bill would authorize the Secretary of Veterans Affairs to carry out an information technology (IT) system and prioritize certain requirements to manage supply chains for medical facilities of the Department of Veterans Affairs. Specifically, it would give VA discretion to procure an IT System to manage the supply chains for the Veterans Health Administration (VHA). It details the desirable functions and capabilities of such a system and lists specific items to be included or excluded. It requires the prioritization of inventory management capability and specifies, that should the Secretary choose to carry out such a system, it must first be piloted at a VHA facility, and that full implementation be completed within three (3) years of enactment of this Act. The bill also provides for the system to apply across the enterprise, e.g., to the Veterans Benefits Administration (VBA) and the National Cemetery Administration (NCA) to the extent items VBA and NCA procure can be accommodated by VHA processes.

VA cites concerns with this bill. The reason for VA's concern is twofold. First, as written, the bill may impede ongoing efforts toward an enterprise supply chain solution. Second, the timeline does not accurately reflect the complexities involved in successful procurement and execution. As such, VA welcomes the opportunity to continue working with the Committee to provide additional technical assistance that will create the flexibility and scope of timing needed to ensure success of the mission.

VA began an enterprise-wide supply chain assessment in October 2021. Leveraging previous internal and external investigations, assessments and reports, VA mapped and validated all current supply chain processes including, facilities, High Tech medical equipment, IT, medical supplies, the National Cemetery Administration, pharmaceuticals, prosthetics, and the Veterans Benefits Administration. VA also completed a detailed gap analysis comparing the "as-is" state with the desired objective of an Easy to Use, Integrated and Intelligent Supply Chain system.

VA is far along in the process that will culminate in the identification and eventual selection of an IT system or systems that will provide a modernized enterprise-wide solution for the supply chain and logistics management. VA has engaged with industry on multiple occasions for feedback and to gain a better perspective on what best practices can be leveraged in our efforts to modernize. We recognize that the most critical aspect of this endeavor is to ensure the continued and consistent delivery of high-quality health care products and services for our providers, Veterans, Caregivers, and their families. VA is committed to an approach focused on lessons learned, end-user input and phased implementation.

Although VA expected to solicit proposals and complete evaluations in January 2023, that timeline has shifted to the right as we learn more from internal and industry feedback. VA continues to socialize the anticipated organizational and staff changes needed to properly execute the mission. This methodical approach enables VA to better understand the issues to be solved, effect change management, and refine and revise our requirements before determining which potential technical solutions will be needed.

VA is nearing completion of the acquisition strategy for the enterprise supply chain modernization effort which will enable VA to develop an Independent Lifecycle Cost Estimate for the overall enterprise supply chain modernization effort. Currently, VA is preparing to issue a Request for Proposals and expects to issue the solicitation by late April or early May. VA does not currently have a cost estimate for this bill.

Conclusion

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