

United States Senate

May 1, 2023

The Honorable Denis R. McDonough
Secretary
Department of Veterans Affairs
801 Vermont Avenue, NW
Washington, D.C. 20402

Secretary McDonough,

I remain deeply concerned about implementation of the Department of Veterans Affairs (VA) interim final rule (IFR) on abortion services, published on September 9, 2022. I have asked several times for data and materials on the implementation of the rule, but your Department has refused to provide information, claiming privacy and sensitivity issues. I submitted a question for the record related to the hearing on September 21, 2022, regarding to this rule's implementation. On February 15, 2023, I asked, again, for information related to this rule. On March 15, 2023, at a hearing of the Senate Veterans' Affairs Committee on the Electronic Health Record Modernization program, I asked Under Secretary for Health, Dr. Elnahal, for information on the implementation of the rule, and he refused to provide any information. As of today, I still have not received answers to my questions.

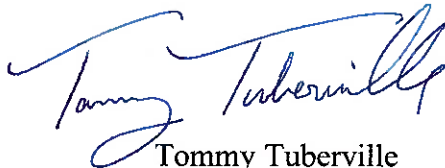
As a Member of this Committee, with a duty to provide oversight of services to veterans, taxpayer funding, and effective legislation, I reject the notion that VA can intentionally withhold this information from Congress. I should not have to remind you that Congress is exempt from HIPPA privacy laws; regardless, the information I have requested is wholly quantifiable in nature and does not require private health or personal identifiable information be disclosed. Please respond to the following questions immediately.

1. Since implementation of the IFR how many abortions has VA facilitated, either at a VA medical facility or in the community?
2. How many of the abortions were performed on veterans and how many were performed on CHAMPVA beneficiaries?
3. How many of the abortions performed were medication abortions and how many were surgical abortions?
4. What was the gestational age of the mother in each of the abortions performed pursuant to the IFR?
5. In what states were the abortions performed?
6. How many Veterans Care Agreements include provisions related to abortion services? In which states are the providers encompassed by these agreements practicing?
7. For each of the abortions performed pursuant to the IFR, which of the four exception categories laid out in the rule were used?

8. Of the abortions performed under the health exception, what was the explicit condition or diagnosis that led VA to approve the referral of an abortion under that exception and what was the specialty of the referring provider?
9. Please share in full the training materials that have been provided to VA staff and community care providers regarding the IFR and any other materials used to assist VA staff or community care providers in determining whether or not to refer a veteran or CHAMPVA beneficiary for an abortion under the IFR.
10. How many VA staff have requested a reasonable accommodation to allow them to opt out of executing any actions pursuant to the IFR due to moral, religious, or other reasons? Of those, how many requests have been approved?
11. How much Veterans Health Administration funding has been used to implement this rule?

I request responses to these questions by May 17, 2023.

Sincerely,

A handwritten signature in blue ink that reads "Tommy Tuberville". The signature is fluid and cursive, with the first name "Tommy" and last name "Tuberville" clearly legible.

Tommy Tuberville
U.S. Senator