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## **Tully Rinckey PLLC Partner Cheri Cannon discusses the potential for lawsuits if VA Reform Bill passes with the Daily Caller**

### **Lawsuits Expected To Challenge VA Reform Bill**

**Bipartisan legislation to reform the scandal-plagued Department of Veterans Affairs (VA) by making it easier to fire VA officials is expected to be held up by litigation. The U.S. Senate recently voted 93-2 to pass a bill sponsored by Sens. Bernie Sanders and John McCain to change the rules to make it easier to fire top VA officials at the Senior Executive Service (SES) level for poor performance, like overseeing secret waiting lists, medical record purges, and preventable veteran deaths. Currently, VA executives cannot be fired for poor performance, only suspended or transferred to other departments within VA. But the bill, if it passes into law, is going to be challenged in court, according to insiders. "We do have some concerns that some provisions could result in significant litigation, which would defer valuable time and resources from VA's accountability efforts and its core mission of delivering quality services to our veterans," said recently departed White House press secretary Jay Carney. "The legislation deprives federal civilian employees due process (notice of the allegations and an opportunity to respond) before their federal employment is terminated," Cheri Cannon, a partner at the Washington law firm Tully Rinckey, told The Daily Caller. "Pre-deprivation due process is required for public employees," Cannon confirmed that Washington lawyers are already talking about litigating against the bill, which they can do on due process grounds if it becomes law and a senior executive is fired for poor performance. "The bill is misguidedly intended to permit the VA secretary to terminate or downgrade senior executives whom the VA believes directed or engaged in misconduct involving manipulation of the**

schedules at VA hospitals causing patient delays and possibly deaths," Cannon said. "The bill is misguided as if such conduct is proven to have occurred, it is a misconduct matter, not a performance-based action, which the bill addresses." "These SES, if the allegations are proven, engaged in activity which may or may not be criminal, but constitutes conduct which certainly appears to be intentional manipulation of government systems to enhance their own position in the VA and personally gain from the appearance of meeting scheduling goals. That has nothing to do with whether or not they performed their jobs as managers and administrators overall successfully, but instead is about their intentional manipulation of government computer systems."