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## **Tully Rinckey PLLC weighs in on the constitutionality of the VA bills recently passed by both the House and Senate.**

**Both VA bills would allow vets to seek private care  
June 16, 2014 | By Ryan McDermott**

Both the House and Senate passed legislation last week that would overhaul the Veterans Affairs Administration's healthcare system, both of which would allow veterans to seek care outside the system if they can't get an appointment quickly enough. The House bill (H.R. 4031), which passed unanimously June 10, would fund the hiring of additional VA doctors and nurses as well as 26 new medical facilities across the country. It would allow veterans to seek care from private doctors if they can't get in to see a VA doctor or if they live more than 40 miles from a VA medical facility. It would also require the VA to give Congress periodic updates on its medical services. The Senate bill (pdf), which passed with only three Republicans voting against it, would do much the same, including allowing veterans to get care from outside the VA system and fund additional doctors and nurses as well as 26 new medical facilities. The bill would also allow the VA secretary to more easily fire or demote executives who perform poorly – a provision much like a separate bill passed in the House at the end of May. But the Senate bill slightly differs from the May House bill on that part of the legislation. The Senate bill says employees can appeal firings and demotions to the Merit Systems Protection Board no later than 7 days after the firing or demotion. And MSPB would be required to expedite the appeal and issue a decision within 21 days after the date of the appeal. Still, Tully Rinckey, a D.C.-based lawfirm focused on federal employee issues, says that doesn't do enough to protect federal

employees" Federal employees are entitled to due process as a consequence of case law that states that public employees have a property interest in their jobs that cannot be deprived unless provided due process in advance of the deprivation," Tully Rinckey spokesman Shaun May said. "There is no magic with 30 days other than the law says a federal agency can't take an adverse action until at least 30 days after notification," May said.