

115TH CONGRESS
1ST SESSION

H. R. 2839

To amend title 10, United States Code, to ensure access to qualified acupuncturist services for military members and military dependents, to amend title 38, United States Code, to ensure access to acupuncturist services through the Department of Veterans Affairs, to amend title XVIII of the Social Security Act to provide for coverage of qualified acupuncturist services under the Medicare program; to amend the Public Health Service Act to authorize the appointment of qualified acupuncturists as officers in the commissioned Regular Corps and the Ready Reserve Corps of the Public Health Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2017

Ms. JUDY CHU of California introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, Veterans' Affairs, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 10, United States Code, to ensure access to qualified acupuncturist services for military members and military dependents, to amend title 38, United States Code, to ensure access to acupuncturist services through the Department of Veterans Affairs, to amend title XVIII of the Social Security Act to provide for coverage of qualified acupuncturist services under the Medicare program; to amend the Public Health Service

Act to authorize the appointment of qualified acupuncturists as officers in the commissioned Regular Corps and the Ready Reserve Corps of the Public Health Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Acupuncture for Heroes and Seniors Act of 2017”.

6 (b) TABLE OF CONTENTS.—The table of contents of
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Inclusion of acupuncture services through military health care system
 and TRICARE program.

Sec. 4. Acupuncture health services for TRICARE program beneficiaries.

Sec. 5. Inclusion of acupuncturist services at veterans health facilities.

Sec. 6. Coverage for acupuncturist services under the Medicare program.

Sec. 7. Acupuncturists in the Regular Corps and the Ready Reserve Corps of
 the Public Health Service.

8 **SEC. 2. DEFINITIONS.**

9 In this Act, except as otherwise provided:

10 (1) The term “qualified acupuncturist services”

11 means—

12 (A) acupuncturist services—

13 (i) that are furnished by a qualified

14 acupuncturist; and

15 (ii) which the qualified acupuncturist

16 is legally authorized to perform under

17 State law; and

1 (B) services and supplies that are fur-
2 nished by a qualified acupuncturist incident to
3 the services described in subparagraph (A).

4 (2) The term “qualified acupuncturist” means
5 an individual who is licensed or certified as an
6 acupuncturist by a State or, in the case of an indi-
7 vidual in a State that does not provide for such li-
8 censure or certification, meets such criteria (such as
9 accreditation through an appropriate nationally rec-
10 ognized certification authority for acupuncturists) as
11 the Secretary of Health and Human Services may
12 specify. In specifying such requirements, the Sec-
13 retary may use the same requirements as those es-
14 tablished by such a certification authority.

15 (3) The term “State” means the 50 States, the
16 District of Columbia, Puerto Rico, the United States
17 Virgin Islands, Guam, American Samoa, and the
18 Northern Mariana Islands.

19 **SEC. 3. INCLUSION OF ACUPUNCTURE SERVICES THROUGH**
20 **MILITARY HEALTH CARE SYSTEM AND**
21 **TRICARE PROGRAM.**

22 (a) MEMBERS OF THE UNIFORMED SERVICES.—

23 (1) IN GENERAL.—Chapter 55 of title 10,
24 United States Code, is amended by inserting after
25 section 1074m the following new section:

1 **“§ 1074n. Provision of acupuncturist services**

2 “(a) IN GENERAL.—In accordance with section
3 1074(c) of this title, and under regulations prescribed by
4 the Secretary, members of the uniformed services entitled
5 to medical care under section 1074 shall be entitled to
6 qualified acupuncturist services (without the requirement
7 of a referral) provided in a military medical treatment fa-
8 cility or a private facility by an acupuncturist who is li-
9 censed or certified in the State in which the facility is lo-
10 cated, or, in the case of a facility in a State that does
11 not provide for such licensure or certification, meets such
12 criteria (such as accreditation through an appropriate na-
13 tionally recognized certification authority for
14 acupuncturists) as the Secretary may specify. In speci-
15 fying such requirements, the Secretary may use the same
16 requirements as those established by such a certification
17 authority.

18 “(b) CIVILIAN EMPLOYEES.—The position of cer-
19 tified, trained acupuncturist for civilian employees in the
20 Department of Defense shall be the grade of GS–12 or
21 higher under the General Schedule under section 5332 of
22 title 5.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
24 tions at the beginning of such chapter is amended

1 by inserting after the item relating to section 1074m
2 the following new item:

“1074n. Provision of acupuncturist services.”.

3 (b) TRICARE PROGRAM.—Section 1079(a) of title
4 10, United States Code, is amended—

5 (1) in paragraph (12), by inserting “or para-
6 graph (18)” after “except as authorized in para-
7 graph (4)”; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(18) Acupuncturist services may be provided
11 without the requirement of a referral if performed
12 by an acupuncturist who is licensed or certified in
13 the State in which the services are furnished, or, in
14 the case of services furnished in a State that does
15 not provide for such licensure or certification, meets
16 such criteria (such as accreditation through an ap-
17 propriate nationally recognized certification author-
18 ity for acupuncturists) as the Secretary may specify.
19 In specifying such requirements, the Secretary may
20 use the same requirements as those established by
21 such a certification authority.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date that is 180 days
24 after the date of the enactment of this Act.

1 **SEC. 4. ACUPUNCTURE HEALTH SERVICES FOR TRICARE**
2 **PROGRAM BENEFICIARIES.**

3 (a) **PLAN REQUIRED.**—Not later than 90 days after
4 the date of the enactment of this Act, the Secretary of
5 Defense shall develop a plan to provide qualified
6 acupuncturist services, as a permanent part of the
7 TRICARE program pursuant to the amendments made by
8 section 3, for covered beneficiaries (as defined in section
9 1072 of title 10, United States Code).

10 (b) **CONTENTS OF PLAN.**—The plan shall require
11 that a contract entered into under section 1097 of title
12 10, United States Code, for the delivery of health care
13 services shall—

14 (1) include the delivery of qualified
15 acupuncturist services;

16 (2) require that qualified acupuncturist services
17 may be provided only by a qualified acupuncturist;
18 and

19 (3) provide clarity on the process that a covered
20 beneficiary must use to select and have direct access
21 to a qualified acupuncturist (without the require-
22 ment of a referral).

23 (c) **IMPLEMENTATION OF PLAN.**—The plan developed
24 under subsection (a) shall provide for implementation of
25 the plan to begin not later than 270 days after the date
26 of enactment of this Act.

1 (d) SUBMISSION.—The Secretary shall submit to
2 Congress the plan developed under subsection (a).

3 **SEC. 5. INCLUSION OF ACUPUNCTURIST SERVICES AT VET-**
4 **ERANS HEALTH FACILITIES.**

5 (a) ACUPUNCTURIST SERVICES.—

6 (1) IN GENERAL.—Subchapter II of chapter 17
7 of title 38, United States Code, is amended by add-
8 ing at the end the following new section:

9 **“§ 1720H. Provision of acupuncturist services**

10 “(a) IN GENERAL.—The Secretary shall carry out a
11 program to provide acupuncturist services to veterans en-
12 rolled in the health care system established under section
13 1705(a) of this title (without the requirement of a refer-
14 ral).

15 “(b) LOCATIONS.—The program under subsection (a)
16 shall be carried out at in at least one facility of the De-
17 partment in each Veterans Integrated Service Network. In
18 selecting such facilities, the Secretary shall ensure that the
19 program is carried out in both urban and rural areas.

20 “(c) SERVICES AVAILABLE.—The Secretary shall en-
21 sure that the acupuncturist services available under the
22 program are able to address, at a minimum, the following:

23 “(1) Chronic and acute pain.

24 “(2) Cancer pain.

25 “(3) Postoperative nausea and vomiting.

1 “(4) Postsurgical gastroparesis syndrome.

2 “(5) Opioid-induced constipation.

3 “(6) Opioid-induced pruritus.

4 “(7) Chemotherapy-induced neuropathy.

5 “(8) Aromatase inhibitor-associated joint pain.

6 “(9) Neck dissection-related pain and dysfunction.
7

8 “(10) Stress management.

9 “(11) Mental health conditions.

10 “(12) Substance abuse.

11 “(13) Symptoms relating to traumatic brain injury and post-traumatic stress.
12

13 “(d) ADMINISTRATION.—(1) The Secretary shall
14 carry out the program through—

15 “(A) qualified acupuncturists appointed as employees of the Department located at medical centers
16 and clinics of the Department; and
17

18 “(B) through contract qualified acupuncturists
19 if—

20 “(i) the Secretary is unable to make appointments described in subparagraph (A);
21

22 “(ii) a patient requires specialty care that
23 an employee under such subparagraph is not
24 able to provide to the patient; or

1 “(iii) there is an emergency that requires
2 the use of such a contract acupuncturist.

3 “(2) The Secretary shall provide training and mate-
4 rials to health care providers of the Department who pro-
5 vide primary care to veterans to explain the benefits of
6 acupuncturist services.

7 “(3) In this section, the term ‘qualified
8 acupuncturist’ means, with respect to the furnishing of
9 services in a State, an individual who is licensed or cer-
10 tified in the State in which the services are furnished, or,
11 in the case of services furnished in a State that does not
12 provide for such licensure or certification, meets such cri-
13 teria (such as accreditation through an appropriate na-
14 tionally recognized certification authority for
15 acupuncturists) as the Secretary may specify. In speci-
16 fying such requirements, the Secretary may use the same
17 requirements as those established by such a certification
18 authority.

19 “(e) REGULATIONS.—The Secretary shall prescribe
20 regulations to carry out this section.”.

21 (2) CLERICAL AMENDMENT.—The table of sec-
22 tions at the beginning of such chapter is amended
23 by inserting after the item relating to section 1720G
24 the following new section:

“1720H. Provision of acupuncturist services.”.

1 (3) CONFORMING AMENDMENT.—Section
2 1701(6) of such title is amended by adding at the
3 end the following new subparagraph:

4 “(H) Acupuncturist services in accordance
5 with section 1720H of this title.”.

6 (b) ADVISORY COMMITTEE.—

7 (1) IN GENERAL.—Subchapter III of chapter 5
8 of such title is amended by adding at the end the
9 following new section:

10 “§ 547. **Advisory committee on acupuncturist services**

11 “(a) ACUPUNCTURE ADVISORY COMMITTEE.—(1)
12 The Secretary shall establish an advisory committee to be
13 known as the ‘Advisory Committee on Acupuncturist Serv-
14 ices’ (in this section referred to as the ‘Committee’) to
15 provide the Secretary with assistance and advice in the
16 development and implementation of the program estab-
17 lished by section 1720H of this title.

18 “(2) The Committee shall consist of members ap-
19 pointed by the Secretary from the general public, includ-
20 ing—

21 “(A) not fewer than five practicing
22 acupuncturists, of which at least four shall be State
23 licensed acupuncturists;

24 “(B) one veteran from each of the Armed
25 Forces;

1 “(C) not fewer than two representatives from
2 veterans service organizations; and

3 “(D) a representative of the Department of De-
4 fense.

5 “(b) DUTIES.—The Committee shall—

6 “(1) review and evaluate the ability of a veteran
7 to access an acupuncturist at facilities of the De-
8 partment;

9 “(2) advise the Secretary with respect to—

10 “(A) protocols governing direct access to
11 acupuncture care;

12 “(B) protocols governing the scope of prac-
13 tice of acupuncture practitioners;

14 “(C) the definitions of services to be pro-
15 vided by acupuncturists; and

16 “(D) such other matters the Secretary de-
17 termines appropriate; and

18 “(3) upon the determination of the Secretary
19 that the program of acupuncturist services under
20 section 1720H of this title has been fully imple-
21 mented, submit to the Secretary a report containing
22 the evaluation of the Committee of the implementa-
23 tion of such program.

1 “(c) CHAIRMAN.—The Secretary shall designate one
2 member of the Committee to serve as the chairman of the
3 Committee.

4 “(d) MEETINGS.—The Committee shall meet at the
5 call of the Chairman, but not fewer than three times dur-
6 ing each fiscal year, beginning in the fiscal year following
7 the fiscal year in which this section is enacted.

8 “(e) REPORT.—Following the date on which the
9 Committee submits to the Secretary the report under sub-
10 section (b)(4), the Secretary shall submit to the Commit-
11 tees on Veterans’ Affairs of the Senate and the House of
12 Representatives a report containing the following:

13 “(1) A copy of the Committee report, together
14 with the comments of the Secretary on the report.

15 “(2) An explanation of the criteria and ration-
16 ale that the Secretary used to determine that the
17 program of acupuncturist services under section
18 1720H of this title was fully implemented, as de-
19 scribed in such subsection (b)(4).

20 “(3) The views of the Secretary regarding the
21 future implementation of such program.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
23 tions at the beginning of such chapter is amended
24 by inserting after the item relating to section 546
25 the following new item:

“547. Advisory committee on acupuncturist services.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) AUTHORITY FOR APPOINTMENTS.—Section
3 7401(1) of title 38, United States Code, is amended
4 by inserting “acupuncturists,” after “chiroprac-
5 tors,”.

6 (2) PERIOD OF APPOINTMENTS.—Section 7403
7 of such title is amended by adding at the end the
8 following new subparagraph:

9 “(I) Acupuncturists.”

10 (3) PAY.—

11 (A) SCALE.—Section 7404 of such title is
12 amended—

13 (i) in subsection (a)(2), by inserting
14 “, acupuncturists,” after “physicians”; and

15 (ii) in the list in subsection (b), by in-
16 sserting “, ACUPUNCTURIST,” after
17 “PHYSICIAN”.

18 (B) TREATMENT.—Section 7431 of title
19 38, United States Code, is amended by adding
20 at the end the following new subsection:

21 “(i) TREATMENT OF ACUPUNCTURISTS.—For pur-
22 poses of this subchapter, an acupuncturist is deemed to
23 be a physician.”.

1 (4) MALPRACTICE AND NEGLIGENCE SUITS.—
2 Section 7316(a)(2) of such title is amended by in-
3 serting “acupuncturist,” after “chiropractor,”.

4 (5) HOURS AND CONDITIONS.—Section 7421(b)
5 of such title is amended by adding at the end the
6 following new paragraph:

7 “(9) Acupuncturists.”.

8 (6) EFFECTIVE DATE.—The amendments made
9 by paragraph (4) apply with respect to services pro-
10 vided on or after the date that is 270 days after the
11 date of enactment of this Act.

12 **SEC. 6. COVERAGE FOR ACUPUNCTURIST SERVICES UNDER**
13 **THE MEDICARE PROGRAM.**

14 (a) IN GENERAL.—Section 1861 of the Social Secu-
15 rity Act (42 U.S.C. 1395x) is amended—

16 (1) in subsection (s)(2)—

17 (A) by striking “and” at the end of sub-
18 paragraph (EE);

19 (B) by adding “and” at the end of sub-
20 paragraph (FF); and

21 (C) by adding at the end the following new
22 subparagraph:

23 “(GG) qualified acupuncturist services (as de-
24 fined in subsection (iii)(1));”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “Qualified Acupuncturist Services

4 “(iii)(1) The term ‘qualified acupuncturist services’
5 means such services furnished by a qualified acupuncturist
6 (as defined in paragraph (2)), and such services and sup-
7 plies furnished as an incident to services furnished by the
8 qualified acupuncturist, as the qualified acupuncturist is
9 legally authorized to perform under State law.

10 “(2) The term ‘qualified acupuncturist’ has the
11 meaning given such term in section 2 of the Acupuncture
12 for Heroes and Seniors Act of 2017.”.

13 (b) PAYMENT RULES.—

14 (1) PAYMENT UNDER PHYSICIAN FEE SCHED-
15 ULE.—Section 1848(j)(3) of the Social Security Act
16 (42 U.S.C. 1395w-4(j)(3)) is amended by inserting
17 “(2)(GG),” before “(3),”.

18 (2) SEPARATE PAYMENT FOR SERVICES OF IN-
19 STITUTIONAL PROVIDERS.—Section 1833(a)(2)(B)
20 of the Social Security Act (42 U.S.C.
21 1395l(a)(2)(B)) is amended—

22 (A) in clause (i), by inserting “and in the
23 case of qualified acupuncturist services,” after
24 “1999,”;

1 (B) in clause (ii), by inserting “or in the
2 case of qualified acupuncturist services,” after
3 “1999,”; and

4 (C) in clause (iii), by inserting “(other
5 than qualified acupuncturist services)” after
6 “such services”.

7 (3) QUALIFIED ACUPUNCTURIST TREATMENT
8 AS A PRACTITIONER.—Section 1842(b)(18)(C) of the
9 Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is
10 amended by adding at the end the following new
11 clause:

12 “(vii) A qualified acupuncturist (as defined in
13 section 1861(iii)(2)).”.

14 (4) SEPARATE BILLING FOR ACUPUNCTURIST
15 SERVICES FURNISHED IN AN INPATIENT HOSPITAL
16 SETTING.—Section 1861(b)(4) of the Social Security
17 Act (42 U.S.C. 1395x(b)(4)) is amended by insert-
18 ing “qualified acupuncturist services,” after “quali-
19 fied psychologist services,”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section apply with respect to services furnished on or
22 after the date that is 270 days after the date of enactment
23 of this Act.

1 **SEC. 7. ACUPUNCTURISTS IN THE REGULAR CORPS AND**
2 **THE READY RESERVE CORPS OF THE PUBLIC**
3 **HEALTH SERVICE.**

4 (a) AUTHORIZATION OF APPOINTMENT.—Section
5 207 of the Public Health Service Act (42 U.S.C. 209) is
6 amended—

7 (1) in subsection (a)(1), by inserting “acupunc-
8 ture,” after “nursing,”; and

9 (2) by adding at the end the following:

10 “(j) APPOINTMENT OF QUALIFIED
11 ACUPUNCTURISTS.—

12 “(1) ELIGIBILITY.—Acupuncturists shall be eli-
13 gible for appointment as officers in the commis-
14 sioned Regular Corps and the Ready Reserve Corps
15 of the Public Health Service.

16 “(2) QUALIFICATION; TRAINING, EQUIPMENT,
17 AND PREPARATION.—The Secretary shall ensure
18 that acupuncturists in the commissioned Regular
19 Corps and in the Ready Reserve Corps—

20 “(A) are qualified acupuncturists (as de-
21 fined in section 2 of the Acupuncture for He-
22 roes and Seniors Act of 2017); and

23 “(B) are trained, equipped, and otherwise
24 prepared to fulfill applicable public health and
25 emergency response service responsibilities in
26 the Commissioned Corps.”.

1 (b) REQUIRED PLACEMENT.—

2 (1) IN GENERAL.—Not later than 90 days after
3 the date of enactment of this Act, the Secretary of
4 Health and Human Services shall ensure the ap-
5 pointment of no fewer than 6 acupuncturists into
6 the commissioned Regular Corps and the Ready Re-
7 serve Corps of the Public Health Service.

8 (2) REPORTS.—Not later than 120 days after
9 the date of enactment of this Act, and quarterly
10 thereafter, the Surgeon General of the Public Health
11 Service shall submit to the Committee on Energy
12 and Commerce of the House of Representatives and
13 the Committee on Health, Education, Labor, and
14 Pensions of the Senate a report on all measures
15 taken by the President, the Surgeon General, and
16 the Secretary of Health and Human Services to
17 carry out the provisions of this section, including the
18 amendments made by this section.

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