H. R. 2643

To provide for medical neutrality and to establish accountability for violations of the principle of medical neutrality, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2011

Mr. McDermott (for himself, Mr. Jones, Mr. Conyers, and Mr. Ellison) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, 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 provide for medical neutrality and to establish accountability for violations of the principle of medical neutrality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medical Neutrality Protection Act of 2011”.

SEC. 2. FINDINGS; STATEMENT OF CONGRESS.

(a) FINDINGS.—Congress finds the following:
(1) International humanitarian law codifies the principle of medical neutrality in the Geneva Conventions, to which the United States is a signatory, during times of national or international armed conflict, which offer special protections to medical facilities and personnel. These provisions recognize ambulances, hospitals, hospital ships, the personnel serving in ambulances and hospitals, citizens who assist the wounded as neutral and protected during conflict.

(2) The Geneva Conventions specify that the wounded and sick shall receive adequate care, be protected from ill-treatment, and be protected from discrimination, and that emblems such as the red cross and red crescent are recognized as protective emblems in conflict. Many parts of the Geneva Conventions have been declared by the International Committee on the Red Cross (ICRC) to be customary international humanitarian law.

(3) International human rights law further expands norms of medical neutrality during the absence of an armed conflict. Article 25 (1) of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Economic, Social
and Cultural Rights, to which the United States is a signatory, establish the right to health.

(b) Statement of Congress.—Congress affirms its support of participants of peaceful demonstrations around the world, as part of the United States’ support for freedom of assembly as enshrined in the United States Constitution. The United States takes particular umbrage at countries that harm or endanger medical professionals during times of unrest.

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to prevent or interfere with legitimate law enforcement objectives conducted in accordance with recognized international human rights norms and legal standards.

SEC. 4. STATEMENTS OF POLICY.

It shall be the policy of the United States to—

(1) consider the protection of medical neutrality a policy priority of the United States as an integral part of the defense of recognized international human rights norms and law;

(2) use its voice, vote, and influence in international fora to further define and codify the principle of medical neutrality and to establish accountability for violations of the principle of medical neutrality; and
(3) use its voice, vote, and influence at the United Nations Human Rights Council to create and appoint a Special Rapporteur on the Protection and Promotion of Medical Neutrality.

SEC. 5. DETERMINATION AND NOTIFICATION OF FOREIGN COUNTRY REQUIRED.

(a) DETERMINATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall compile and update at least annually a list of those foreign governments that the Secretary determines, after consultation with local and international nongovernmental organizations and the Assistant Secretary for Democracy, Human Rights and Labor, have engaged in violations of medical neutrality. The Secretary shall publish such list on the website of the Department of State.

(b) NOTIFICATION.—The Secretary of State shall provide a formal notification to a foreign government that is included on a list described in subsection (a).

SEC. 6. PROHIBITIONS.

(a) PROHIBITION ON CERTAIN ASSISTANCE.—Subject to subsection (c) of this section and section 8, and except as provided in section 7, the authorities specified in section 516 or 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j or 2347) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be used

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to provide assistance, and no licenses for direct commercial sales of military equipment may be issued, to the government of a country that the Secretary of State has, in accordance with section 5 of this Act, determined to have engaged in a violation of medical neutrality.

(b) Prohibition on Certain Visas.—Except as provided in section 7, upon receiving credible information, including information contained in the Annual Country Reports on Human Rights Practices, that an alien is or was engaged in or has organized any act that is a violation of medical neutrality, the Secretary of State shall deny the issuance of a visa to, and the Secretary of Homeland Security shall deny the entry into the United States of, such alien.

(c) Minimum Duration.—The prohibitions on assistance described in subsection (a) shall remain in effect for a minimum of one fiscal year, after which the President may reinstate such assistance pursuant to section 8.

SEC. 7. WAIVER.

(a) In General.—The President may temporarily waive the prohibitions on assistance described in section 6 if the President transmits to the appropriate congressional committees a determination that—
(1) such waiver is in the national security interest of the United States, including the reasons therefor; and

(2) establishes a date, not later than two years after the issuance of such waiver, on which such waiver shall expire.

(b) CONGRESSIONAL OVERRIDE.—If Congress enacts a joint resolution disapproving such waiver, such waiver shall have no force or effect.

SEC. 8. REINSTATEMENT OF ASSISTANCE.

The President may reinstate assistance to a country otherwise prohibited under section 6(a) upon written certification to the appropriate congressional committees that the government of such country has implemented—

(1) measures that include the successful implementation of an action plan and actual steps to come into compliance with medical neutrality; and

(2) policies and mechanisms to prohibit and prevent future government or government-sponsored acts that are a violation of medical neutrality and has the input and agreement of local and international nongovernmental organizations.
SEC. 9. INVESTIGATIONS OF VIOLATIONS OF MEDICAL NEUTRALITY.

(a) INVESTIGATIONS OF ALLEGATIONS OF VIOLATIONS OF MEDICAL NEUTRALITY.—The heads of United States diplomatic and consular missions shall investigate all reports of violations of medical neutrality in the countries or regions in which such missions are located for inclusion in the annual Country Reports on Human Rights Practices under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n and 2304). (b) INCLUSION IN ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The Foreign Assistance Act of 1961 is amended—

(1) in section 116 (22 U.S.C. 2151n), by adding at the end the following new subsection:

“(g) The report required under subsection (d) shall include a description of any violations of medical neutrality (as such term is defined in the Medical Neutrality Protection Act of 2011) and an identification of the individuals who have engaged in or organized such violations in each foreign country covered by such report.”; and

(2) in section 502B (22 U.S.C. 2304), by adding at the end the following new subsection:

“(i) The report required by subsection (b) shall include a description of any violations of medical neutrality (as such term is defined in the Medical Neutrality Protec-
tion Act of 2011) and an identification of the individuals
who have engaged in or organized such violations in each
foreign country covered by such report.”

SEC. 10. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means—

(A) the Committee on Foreign Affairs and
the Committee on Appropriations of the House
of Representatives; and

(B) the Committee on Foreign Relations
and the Committee on Appropriations of the
Senate.

(2) VIOLATION OF MEDICAL NEUTRALITY.—The
term “violation of medical neutrality” means—

(A) militarized attacks on health care fa-
cilities, health care service providers, or individ-
uals in the course of receiving medical treat-
ment;

(B) wanton destruction of medical sup-
plies, facilities, records, or transportation serv-
ices;

(C) willful obstruction of medical ethics as
specified in the World Medical Association’s
International Code of Medical Ethics, including preventing medical professionals from administering ethical medical care to individuals in need;

(D) coercion of medical personnel to commit acts in violation of their ethical responsibilities;

(E) deliberate misuse of health care facilities, transportation services, uniforms, or other insignia;

(F) deliberate blocking of access to health care facilities and health care professionals; or

(G) arbitrary arrest or detention of health care service providers or individuals seeking medical care.