

114TH CONGRESS
1ST SESSION

H. R. 3849

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

OCTOBER 28, 2015

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 2015”.

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. Appointment of acupuncturists as commissioned officers.

Sec. 6. Inclusion of acupuncturist services at veterans health facilities.

Sec. 7. Coverage for acupuncturist services under the Medicare program.

Sec. 8. 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 “In accordance with section 1074(c) of this title, and
 3 under regulations prescribed by the Secretary, members
 4 of the uniformed services entitled to medical care under
 5 section 1074 shall be entitled to qualified acupuncturist
 6 services (without the requirement of a referral) provided
 7 in a military medical treatment facility or a private facility
 8 by an acupuncturist who is licensed or certified in the
 9 State in which the facility is located, or, in the case of
 10 a facility in a State that does not provide for such licen-
 11 sure or certification, meets such criteria (such as accredi-
 12 tation through an appropriate nationally recognized cer-
 13 tification authority for acupuncturists) as the Secretary
 14 may specify. In specifying such requirements, the Sec-
 15 retary may use the same requirements as those established
 16 by such a certification authority.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
 18 tions at the beginning of such chapter is amended
 19 by inserting after the item relating to section 1074m
 20 the following new item:

“1074n. Provision of acupuncturist services.”.

21 (b) TRICARE PROGRAM.—Section 1079(a) of title
 22 10, United States Code, is amended—

23 (1) in paragraph (13), by inserting “or para-
 24 graph (18)” after “except as authorized in para-
 25 graph (4)”; and

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

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

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

18 **SEC. 4. ACUPUNCTURE HEALTH SERVICES FOR TRICARE**
19 **PROGRAM BENEFICIARIES.**

20 (a) PLAN REQUIRED.—Not later than 90 days after
21 the date of the enactment of this Act, the Secretary of
22 Defense shall develop a plan to provide qualified
23 acupuncturist services, as a permanent part of the
24 TRICARE program pursuant to the amendments made by

1 section 3, for covered beneficiaries (as defined in section
2 1072 of title 10, United States Code).

3 (b) CONTENTS OF PLAN.—The plan shall require
4 that a contract entered into under section 1097 of title
5 10, United States Code, for the delivery of health care
6 services shall—

7 (1) include the delivery of qualified
8 acupuncturist services;

9 (2) require that qualified acupuncturist services
10 may be provided only by a qualified acupuncturist;
11 and

12 (3) provide clarity on the process that a covered
13 beneficiary must use to select and have direct access
14 to a qualified acupuncturist (without the require-
15 ment of a referral).

16 (c) IMPLEMENTATION OF PLAN.—The plan developed
17 under subsection (a) shall provide for implementation of
18 the plan to begin not later than 270 days after the date
19 of enactment of this Act.

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

22 **SEC. 5. APPOINTMENT OF ACUPUNCTURISTS AS COMMIS-**
23 **SIONED OFFICERS IN THE ARMED FORCES.**

24 (a) ARMY.—Section 3068 of title 10, United States
25 Code, is amended—

1 (1) by inserting “(a) MEDICAL SERVICE
2 CORPS.—” before “There is”;

3 (2) in paragraph (5)—

4 (A) in subparagraph (D), by striking
5 “and”;

6 (B) by redesignating subparagraph (E) as
7 subparagraph (F); and

8 (C) by inserting after subparagraph (D)
9 the following new subparagraph:

10 “(E) the Acupuncture Section; and”; and

11 (3) by adding at the end the following new sub-
12 section:

13 “(b) APPOINTMENT OF ACUPUNCTURISTS.—

14 Acupuncturists who are qualified under regulations pre-
15 scribed by the Secretary of the Army may be appointed
16 as commissioned officers in the Acupuncture Section of
17 the Medical Service Corps of the Army. Such regulations
18 shall require such acupuncturists to be licensed or certified
19 in the State in which the services are furnished, or, in
20 the case of services furnished in a State that does not pro-
21 vide for such licensure or certification, meets such criteria
22 (such as accreditation through an appropriate nationally
23 recognized certification authority for acupuncturists) as
24 the Secretary of the Army may specify. In specifying such
25 requirements, the Secretary may use the same require-

1 ments as those established by such a certification author-
 2 ity.”.

3 (b) NAVY.—

4 (1) IN GENERAL.—Chapter 513 of such title is
 5 amended by inserting after section 5139 the fol-
 6 lowing new section:

7 **“§ 5140. Appointment of acupuncturists in the Med-**
 8 **ical Service Corps**

9 “Acupuncturists who are qualified under regulations
 10 prescribed by the Secretary of the Navy may be appointed
 11 as commissioned officers in the Medical Service Corps of
 12 the Navy. Such regulations shall require such
 13 acupuncturists to be licensed or certified in the State in
 14 which the services are furnished, or, in the case of services
 15 furnished in a State that does not provide for such licen-
 16 sure or certification, meets such criteria (such as accredi-
 17 tation through an appropriate nationally recognized cer-
 18 tification authority for acupuncturists) as the Secretary
 19 of the Navy may specify. In specifying such requirements,
 20 the Secretary may use the same requirements as those es-
 21 tablished by such a certification authority.”.

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 5139
 25 the following new item:

“5140. Appointment of acupuncturists in the Medical Service Corps.”.

1 (c) AIR FORCE.—Section 8067(f) of such title is
2 amended—

3 (1) by striking “physician assistant functions
4 and chiropractic functions” and inserting “physician
5 assistant functions, chiropractic functions, and
6 acupuncturist functions”; and

7 (2) by adding at the end the following new sen-
8 tence: “Biomedical service officers may be referred
9 to as the specific career designation, including chiro-
10 practice services officer and acupuncturist services of-
11 ficer.”.

12 (d) REGULATIONS.—The regulations required to be
13 prescribed by the amendments made by this section shall
14 be prescribed not later than 120 days after the date of
15 the enactment of this Act.

16 **SEC. 6. INCLUSION OF ACUPUNCTURIST SERVICES AT VET-**
17 **ERANS HEALTH FACILITIES.**

18 (a) ACUPUNCTURIST SERVICES.—

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

22 **“§ 1720H. Provision of acupuncturist services**

23 **“(a) IN GENERAL.—The Secretary shall carry out a**
24 **program to provide acupuncturist services to veterans en-**
25 **rolled in the health care system established under section**

1 1705(a) of this title (without the requirement of a refer-
2 ral).

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

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

11 “(1) Chronic and acute pain.

12 “(2) Cancer pain.

13 “(3) Postoperative nausea and vomiting.

14 “(4) Postsurgical gastroparesis syndrome.

15 “(5) Opioid-induced constipation.

16 “(6) Opioid-induced pruritus.

17 “(7) Chemotherapy-induced neuropathy.

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

19 “(9) Neck dissection-related pain and dysfunc-
20 tion.

21 “(10) Stress management.

22 “(11) Mental health conditions.

23 “(12) Substance abuse.

24 “(13) Symptoms relating to traumatic brain in-
25 jury and post-traumatic stress.

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

3 “(A) qualified acupuncturists appointed as em-
4 ployees of the Department located at medical centers
5 and clinics of the Department; and

6 “(B) through contract qualified acupuncturists
7 if—

8 “(i) the Secretary is unable to make ap-
9 pointments described in subparagraph (A);

10 “(ii) a patient requires specialty care that
11 an employee under such subparagraph is not
12 able to provide to the patient; or

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

15 “(2) The Secretary shall provide training and mate-
16 rials to health care providers of the Department who pro-
17 vide primary care to veterans to explain the benefits of
18 acupuncturist services.

19 “(3) In this section, the term ‘qualified
20 acupuncturist’ means, with respect to the furnishing of
21 services in a State, an individual who licensed or certified
22 in the State in which the services are furnished, or, in
23 the case of services furnished in a State that does not pro-
24 vide for such licensure or certification, meets such criteria
25 (such as accreditation through an appropriate nationally

1 recognized certification authority for acupuncturists) as
 2 the Secretary may specify. In specifying such require-
 3 ments, the Secretary may use the same requirements as
 4 those established by such a certification authority.

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

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

“1720H. Provision of acupuncturist services.”.

11 (3) CONFORMING AMENDMENT.—Section
 12 1701(6) of such title is amended by adding at the
 13 end the following new subparagraph:

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

16 (b) ADVISORY COMMITTEE.—

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

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

21 “(a) ACUPUNCTURE ADVISORY COMMITTEE.—(1)
 22 The Secretary shall establish an advisory committee to be
 23 known as the ‘Advisory Committee on Acupuncturist Serv-
 24 ices’ (in this section referred to as the ‘Committee’) to
 25 provide the Secretary with assistance and advice in the

1 development and implementation of the program estab-
2 lished by section 1720H of this title.

3 “(2) The Committee shall consist of members ap-
4 pointed by the Secretary from the general public, includ-
5 ing—

6 “(A) not fewer than five practicing
7 acupuncturists, of which at least four shall be State
8 licensed acupuncturists;

9 “(B) one veteran from each of the Armed
10 Forces;

11 “(C) not fewer than two representatives from
12 veterans service organizations; and

13 “(D) a representative of the Department of De-
14 fense.

15 “(b) DUTIES.—The Committee shall—

16 “(1) review and evaluate the ability of a veteran
17 to access an acupuncturist at facilities of the De-
18 partment;

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

20 “(A) protocols governing direct access to
21 acupuncture care;

22 “(B) protocols governing the scope of prac-
23 tice of acupuncture practitioners;

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

1 “(D) such other matters the Secretary de-
2 termines appropriate; and

3 “(3) upon the determination of the Secretary
4 that the program of acupuncturist services under
5 section 1720H of this title has been fully imple-
6 mented, submit to the Secretary a report containing
7 the evaluation of the Committee of the implementa-
8 tion of such program.

9 “(c) CHAIRMAN.—The Secretary shall designate one
10 member of the Committee to serve as the chairman of the
11 Committee.

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

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

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

23 “(2) An explanation of the criteria and ration-
24 ale that the Secretary used to determine that the
25 program of acupuncturist services under section

1 1720H of this title was fully implemented, as de-
2 scribed in such subsection (b)(4).

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

5 (2) CLERICAL AMENDMENT.—The table of sec-
6 tions at the beginning of such chapter is amended
7 by inserting after the item relating to section 546
8 the following new item:

“547. Advisory committee on acupuncturist services.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) AUTHORITY FOR APPOINTMENTS.—Section
11 7401(1) of title 38, United States Code, is amended
12 by inserting “acupuncturists,” after “chiroprac-
13 tors,”.

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

17 “(I) Acupuncturists.”.

18 (3) PAY.—

19 (A) SCALE.—Section 7404 of such title is
20 amended—

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

23 (ii) in the list in subsection (b), by in-
24 serting “, ACUPUNCTURIST,” after
25 “PHYSICIAN”.

1 (B) TREATMENT.—Section 7431 of title
 2 38, United States Code, is amended by adding
 3 at the end the following new subsection:

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

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

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

13 “(9) Acupuncturists.”.

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

18 **SEC. 7. COVERAGE FOR ACUPUNCTURIST SERVICES UNDER**
 19 **THE MEDICARE PROGRAM.**

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

22 (1) in subsection (s)(2)—

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

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

3 (C) by adding at the end the following new
 4 subparagraph:

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

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

9 “Qualified Acupuncturist Services

10 “(iii)(1) The term ‘qualified acupuncturist services’
 11 means such services furnished by a qualified acupuncturist
 12 (as defined in paragraph (2)), and such services and sup-
 13 plies furnished as an incident to services furnished by the
 14 qualified acupuncturist, as the qualified acupuncturist is
 15 legally authorized to perform under State law.

16 “(2) The term ‘qualified acupuncturist’ has the
 17 meaning given such term in section 2 of the Acupuncture
 18 for Heroes and Seniors Act of 2015.”.

19 (b) PAYMENT RULES.—

20 (1) PAYMENT UNDER PHYSICIAN FEE SCHED-
 21 ULE.—Section 1848(j)(3) of the Social Security Act
 22 (42 U.S.C. 1395w–4(j)(3)) is amended by inserting
 23 “(2)(GG),” before “(3),”.

24 (2) SEPARATE PAYMENT FOR SERVICES OF IN-
 25STITUTIONAL PROVIDERS.—Section 1833(a)(2)(B)

1 of the Social Security Act (42 U.S.C.
2 1395l(a)(2)(B)) is amended—

3 (A) in clause (i), by inserting “and in the
4 case of qualified acupuncturist services,” after
5 “1999,”;

6 (B) in clause (ii), by inserting “or in the
7 case of qualified acupuncturist services,” after
8 “1999,”; and

9 (C) in clause (iii), by inserting “(other
10 than qualified acupuncturist services)” after
11 “such services”.

12 (3) QUALIFIED ACUPUNCTURIST TREATMENT
13 AS A PRACTITIONER.—Section 1842(b)(18)(C) of the
14 Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is
15 amended by adding at the end the following new
16 clause:

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

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

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section apply with respect to services furnished on or
3 after the date that is 270 days after the date of enactment
4 of this Act.

5 **SEC. 8. ACUPUNCTURISTS IN THE REGULAR CORPS AND**
6 **THE READY RESERVE CORPS OF THE PUBLIC**
7 **HEALTH SERVICE.**

8 (a) AUTHORIZATION OF APPOINTMENT.—Section
9 207 of the Public Health Service Act (42 U.S.C. 209) is
10 amended—

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

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

14 “(j) APPOINTMENT OF QUALIFIED
15 ACUPUNCTURISTS.—

16 “(1) ELIGIBILITY.—Acupuncturists shall be eli-
17 gible for appointment as officers in the commis-
18 sioned Regular Corps and the Ready Reserve Corps
19 of the Public Health Service.

20 “(2) QUALIFICATION; TRAINING, EQUIPMENT,
21 AND PREPARATION.—The Secretary shall ensure
22 that acupuncturists in the commissioned Regular
23 Corps and in the Ready Reserve Corps—

1 “(A) are qualified acupuncturists (as de-
2 fined in section 2 of the Acupuncture for He-
3 roes and Seniors Act of 2015); and

4 “(B) are trained, equipped, and otherwise
5 prepared to fulfill applicable public health and
6 emergency response service responsibilities in
7 the Commissioned Corps.”.

8 (b) REQUIRED PLACEMENT.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date of enactment of this Act, the Secretary of
11 Health and Human Services shall ensure the ap-
12 pointment of no fewer than 6 acupuncturists into
13 the commissioned Regular Corps and the Ready Re-
14 serve Corps of the Public Health Service.

15 (2) REPORTS.—Not later than 120 days after
16 the date of enactment of this Act, and quarterly
17 thereafter, the Surgeon General of the Public Health
18 Service shall submit to the Committee on Energy
19 and Commerce of the House of Representatives and
20 the Committee on Health, Education, Labor, and
21 Pensions of the Senate a report on all measures
22 taken by the President, the Surgeon General, and
23 the Secretary of Health and Human Services to

- 1 carry out the provisions of this section, including the
- 2 amendments made by this section.

