

112TH CONGRESS
1ST SESSION

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.

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.**

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

6 **SEC. 2. FINDINGS; STATEMENT OF CONGRESS.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) International humanitarian law codifies the
2 principle of medical neutrality in the Geneva Con-
3 ventions, to which the United States is a signatory,
4 during times of national or international armed con-
5 flict, which offer special protections to medical facili-
6 ties and personnel. These provisions recognize ambu-
7 lances, hospitals, hospital ships, the personnel serv-
8 ing in ambulances and hospitals, citizens who assist
9 the wounded as neutral and protected during con-
10 flict.

11 (2) The Geneva Conventions specify that the
12 wounded and sick shall receive adequate care, be
13 protected from ill-treatment, and be protected from
14 discrimination, and that emblems such as the red
15 cross and red crescent are recognized as protective
16 emblems in conflict. Many parts of the Geneva Con-
17 ventions have been declared by the International
18 Committee on the Red Cross (ICRC) to be cus-
19 tomary international humanitarian law.

20 (3) International human rights law further ex-
21 pands norms of medical neutrality during the ab-
22 sence of an armed conflict. Article 25 (1) of the Uni-
23 versal Declaration of Human Rights and Article 12
24 of the International Covenant on Economic, Social

1 and Cultural Rights, to which the United States is
2 a signatory, establish the right to health.

3 (b) STATEMENT OF CONGRESS.—Congress affirms
4 its support of participants of peaceful demonstrations
5 around the world, as part of the United States’ support
6 for freedom of assembly as enshrined in the United States
7 Constitution. The United States takes particular umbrage
8 at countries that harm or endanger medical professionals
9 during times of unrest.

10 **SEC. 3. RULE OF CONSTRUCTION.**

11 Nothing in this Act shall be construed to prevent or
12 interfere with legitimate law enforcement objectives con-
13 ducted in accordance with recognized international human
14 rights norms and legal standards.

15 **SEC. 4. STATEMENTS OF POLICY.**

16 It shall be the policy of the United States to—

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

21 (2) use its voice, vote, and influence in inter-
22 national fora to further define and codify the prin-
23 ciple of medical neutrality and to establish account-
24 ability for violations of the principle of medical neu-
25 trality; and

1 (3) use its voice, vote, and influence at the
2 United Nations Human Rights Council to create and
3 appoint a Special Rapporteur on the Protection and
4 Promotion of Medical Neutrality.

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

7 (a) DETERMINATION.—Not later than 180 days after
8 the date of the enactment of this Act, the Secretary of
9 State shall compile and update at least annually a list of
10 those foreign governments that the Secretary determines,
11 after consultation with local and international nongovern-
12 mental organizations and the Assistant Secretary for De-
13 mocracy, Human Rights and Labor, have engaged in vio-
14 lations of medical neutrality. The Secretary shall publish
15 such list on the website of the Department of State.

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

19 **SEC. 6. PROHIBITIONS.**

20 (a) PROHIBITION ON CERTAIN ASSISTANCE.—Sub-
21 ject to subsection (c) of this section and section 8, and
22 except as provided in section 7, the authorities specified
23 in section 516 or 541 of the Foreign Assistance Act of
24 1961 (22 U.S.C. 2321j or 2347) or section 23 of the Arms
25 Export Control Act (22 U.S.C. 2763) may not be used

1 to provide assistance, and no licenses for direct commer-
2 cial sales of military equipment may be issued, to the gov-
3 ernment of a country that the Secretary of State has, in
4 accordance with section 5 of this Act, determined to have
5 engaged in a violation of medical neutrality.

6 (b) PROHIBITION ON CERTAIN VISAS.—Except as
7 provided in section 7, upon receiving credible information,
8 including information contained in the Annual Country
9 Reports on Human Rights Practices, that an alien is or
10 was engaged in or has organized any act that is a violation
11 of medical neutrality, the Secretary of State shall deny
12 the issuance of a visa to, and the Secretary of Homeland
13 Security shall deny the entry into the United States of,
14 such alien.

15 (c) MINIMUM DURATION.—The prohibitions on as-
16 sistance described in subsection (a) shall remain in effect
17 for a minimum of one fiscal year, after which the Presi-
18 dent may reinstate such assistance pursuant to section 8.

19 **SEC. 7. WAIVER.**

20 (a) IN GENERAL.—The President may temporarily
21 waive the prohibitions on assistance described in section
22 6 if the President transmits to the appropriate congres-
23 sional committees a determination that—

1 (1) such waiver is in the national security inter-
2 est of the United States, including the reasons
3 therefor; and

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

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

10 **SEC. 8. REINSTATEMENT OF ASSISTANCE.**

11 The President may reinstate assistance to a country
12 otherwise prohibited under section 6(a) upon written cer-
13 tification to the appropriate congressional committees that
14 the government of such country has implemented—

15 (1) measures that include the successful imple-
16 mentation of an action plan and actual steps to
17 come into compliance with medical neutrality; and

18 (2) policies and mechanisms to prohibit and
19 prevent future government or government-sponsored
20 acts that are a violation of medical neutrality and
21 has the input and agreement of local and inter-
22 national nongovernmental organizations.

1 **SEC. 9. INVESTIGATIONS OF VIOLATIONS OF MEDICAL NEU-**
2 **TRALITY.**

3 (a) INVESTIGATIONS OF ALLEGATIONS OF VIOLA-
4 TIONS OF MEDICAL NEUTRALITY.—The heads of United
5 States diplomatic and consular missions shall investigate
6 all reports of violations of medical neutrality in the coun-
7 tries or regions in which such missions are located for in-
8 clusion in the annual Country Reports on Human Rights
9 Practices under sections 116(d) and 502B(b) of the For-
10 eign Assistance Act of 1961 (22 U.S.C. 2151n and 2304).

11 (b) INCLUSION IN ANNUAL COUNTRY REPORTS ON
12 HUMAN RIGHTS PRACTICES.—The Foreign Assistance
13 Act of 1961 is amended—

14 (1) in section 116 (22 U.S.C. 2151n), by add-
15 ing at the end the following new subsection:

16 “(g) The report required under subsection (d) shall
17 include a description of any violations of medical neu-
18 trality (as such term is defined in the Medical Neutrality
19 Protection Act of 2011) and an identification of the indi-
20 viduals who have engaged in or organized such violations
21 in each foreign country covered by such report.”; and

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

24 “(i) The report required by subsection (b) shall in-
25 clude a description of any violations of medical neutrality
26 (as such term is defined in the Medical Neutrality Protec-

1 tion Act of 2011) and an identification of the individuals
2 who have engaged in or organized such violations in each
3 foreign country covered by such report.”.

4 **SEC. 10. DEFINITIONS.**

5 In this Act:

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

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

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

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

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

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

24 (C) willful obstruction of medical ethics as
25 specified in the World Medical Association’s

1 International Code of Medical Ethics, including
2 preventing medical professionals from admin-
3 istering ethical medical care to individuals in
4 need;

5 (D) coercion of medical personnel to com-
6 mit acts in violation of their ethical responsibil-
7 ities;

8 (E) deliberate misuse of health care facili-
9 ties, transportation services, uniforms, or other
10 insignia;

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

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

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