

VETERANS HEALTH CARE IMPROVEMENT ACT OF 2003

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JULY 10, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SMITH of New Jersey, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 2357]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2357) to amend title 38, United States Code, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans Health Care Improvement Act of 2003".

**SEC. 2. APPOINTMENT OF CHIROPRACTORS IN THE VETERANS HEALTH ADMINISTRATION.**

(a) APPOINTMENTS.—Section 7401 of title 38, United States Code, is amended—

(1) by inserting "and chiropractic care" in the matter preceding paragraph (1) after "medical care"; and

(2) by inserting "chiropractors," in paragraph (1) after "podiatrists,".

(b) QUALIFICATIONS OF APPOINTEES.—Section 7402(b) of such title is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph (10):

"(10) CHIROPRACTOR.—To be eligible to be appointed to a chiropractor position, a person must—

"(A) hold the degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and

"(B) be licensed to practice chiropractic in a State."

(c) PERIOD OF APPOINTMENTS AND PROMOTIONS.—Section 7403(a)(2) of such title is amended by adding at the end the following new subparagraph:

"(H) Chiropractors."

(d) GRADES AND PAY SCALES.—Section 7404(b)(1) of such title is amended by striking the third center heading in the table and inserting the following:

“CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE”.

(e) TEMPORARY AND PART-TIME APPOINTMENTS.—Section 7405(a) of such title is amended—

- (1) by adding at the end of paragraph (1) the following new subparagraph: “(E) Chiropractors.”; and
- (2) by adding at the end of paragraph (2) the following new subparagraph: “(D) Chiropractors.”.

(f) RESIDENCIES AND INTERNSHIPS.—Section 7406(c) of such title is amended—

- (1) in paragraph (1)—
  - (A) by inserting “and chiropractic” after “medical” the first place it appears; and
  - (B) by inserting “or chiropractic” after “medical” the second place it appears;
- (2) in paragraph (2)(B), by inserting “or chiropractic” after “medical” the first place it appears; and
- (3) in paragraph (3)(A), by inserting “or chiropractic” after “medical”.

(g) MALPRACTICE AND NEGLIGENCE PROTECTION.—Section 7316(a) of such title is amended—

- (1) in paragraph (1), by inserting “or chiropractic” after “medical” each place it appears; and
- (2) in paragraph (2)—
  - (A) by inserting “or chiropractic” after “medical” the first place it appears; and
  - (B) by inserting “chiropractor,” after “podiatrist.”.

(h) TREATMENT AS SCARCE MEDICAL SPECIALISTS FOR CONTRACTING PURPOSES.—Section 7409(a) of such title is amended by inserting “chiropractors,” in the second sentence after “optometrists.”.

(i) REIMBURSEMENT OF CONTINUING PROFESSIONAL EDUCATION EXPENSES.—Section 7411 of such title is amended by striking “or dentist” and inserting “, dentist, or chiropractic”.

(j) COLLECTIVE BARGAINING EXEMPTION.—Section 7421(b) of such title is amended by adding at the end the following new paragraph:

“(8) Chiropractors.”.

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

**SEC. 3. ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE OF CERTAIN FILIPINO WORLD WAR II VETERANS RESIDING IN THE UNITED STATES.**

(a) ELIGIBILITY.—The text of section 1734 of title 38, United States Code, is amended to read as follows:

“(a) The Secretary shall furnish hospital and nursing home care and medical services to any individual described in subsection (b) in the same manner, and subject to the same terms and conditions, as apply to the furnishing of such care and services to individuals who are veterans as defined in section 101(2) of this title. Any disability of an individual described in subsection (b) that is a service-connected disability for purposes of this subchapter (as provided for under section 1735(2) of this title) shall be considered to be a service-connected disability for purposes of furnishing care and services under the preceding sentence.

“(b) Subsection (a) applies to any individual who is a Commonwealth Army veteran or new Philippine Scout and who—

- “(1) is residing in the United States; and
- “(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.”.

(b) LIMITATION.—(1) The amendment made by subsection (a) shall take effect on the date on which the Secretary of Veterans Affairs submits to the Committees on Veterans’ Affairs of the Senate and House of Representatives and publishes in the Federal Register a certification described in paragraph (2).

(2) A certification referred to in paragraph (1) is a certification that sufficient resources are available for the fiscal year during which the certification is submitted to carry out section 1734 of title 38, United States Code, as amended by such amendment, during that fiscal year at each significantly affected health care facility of the Department of Veterans Affairs.

(3) For purposes of paragraph (2), the term “significantly affected health care facility” means a health care facility at which, as determined by the Secretary, it is reasonably foreseeable that the implementation of the provisions of section 1734 of title 38, United States Code, as amended by subsection (a), will result in a significant increase in the use of health care resources due to the number of veterans described in subsection (b) of that section who are considered to be likely to seek hospital or nursing home care or medical services, as authorized by subsection (a) of that section, at that facility.

Amend the title so as to read:

A bill to amend title 38, United States Code, to provide for the appointment of chiropractors in the Veterans Health Administration of the Department of Veterans Affairs and to provide eligibility for Department of Veterans Affairs health care for certain Filipino World War II veterans residing in the United States.

#### INTRODUCTION

The reported bill reflects the Committee's consideration of several bills introduced during the 108th Congress, including H.R. 2357, H.R. 2414, and H.R. 2352. On June 5, 2003, Honorable Ginny Brown-Waite, Honorable Christopher H. Smith, and Honorable Jeff Miller introduced H.R. 2357, to amend title 38, United States Code, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes. On June 10, 2003, Honorable Jerry Moran, Honorable Christopher H. Smith, Honorable Lane Evans, Honorable Bob Filner, and Honorable Luis V. Gutierrez introduced H.R. 2414, to amend title 38, United States Code, to provide for the appointment of chiropractors in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes. On June 5, 2003, Honorable Rob Simmons, Honorable Bob Filner, Honorable Ciro D. Rodriguez, Honorable Lane Evans, Honorable Randy "Duke" Cunningham, Honorable Neil Abercrombie, Honorable Dana Rohrabacher, Honorable Susan A. Davis, Honorable Darrell E. Issa, and Honorable Christopher H. Smith introduced H.R. 2352, to amend title 38, United States Code, to provide eligibility for Department of Veterans Affairs health care for certain Filipino World War II veterans residing in the United States.

On June 13, 2002, the Subcommittee on Health held a hearing on the health care of Filipino World War II veterans within the Department of Veterans Affairs. Witnesses who appeared before the subcommittee included His Excellency Albert Del Rosario, Ambassador to the United States, Embassy of the Philippines; Honorable Anthony J. Principi, Secretary, Department of Veterans Affairs, accompanied by Mr. John H. Thompson, Deputy General Counsel; Honorable Daniel K. Inouye, United States Senator for the State of Hawaii; Honorable Benjamin Gilman, Member of Congress from the State of New York; Honorable Randy "Duke" Cunningham, Member of Congress from the State of California; Honorable Dana Rohrabacher, Member of Congress from the State of California; Honorable Patsy T. Mink, Member of Congress from the State of Hawaii; Honorable Juanita Millender-McDonald, Member of Congress from the State of California; Honorable Robert A. Underwood, Member of Congress from the Territory of Guam; Mr. Lou Diamond Phillips, actor and Filipino Veterans Activist, Los Angeles, California; Mr. Fritz Friedman, Chair, Assembly for Justice, Los Angeles, California; Mr. Resty Supnet, President, Filipino World War II Veterans Foundation of San Diego County, accompanied by Mr. Romy Monteyro; Mr. Patrick Ganio, President, American Coalition for Filipino Veterans; Ms. Susan Espiritu Maquindang, Executive Director, Filipino-American Service Group; Ms. Lourdes Santos Tancinco, President, San Francisco Veterans Equity Center; Ms. Joy J. Ilem, Assistant National Legislative Director, Disabled American Veterans; Mr. Richard Weidman, Director of Government Relations, Vietnam Veterans of America; and Mr. James Fischl, Di-

rector of National Veterans Affairs and Rehabilitation Commission, The American Legion. Written testimonies were received from Honorable Barbara Boxer, United States Senator from the State of California; Honorable Barbara Lee, Member of Congress from the State of California; Honorable Nancy Pelosi, Member of Congress from the State of California; Honorable Maxine Waters, Member of Congress from the State of California; General Tagumpay Nanadiego, Former Special Presidential Representative, Embassy of the Philippines; Ms. Wendy Lawrence, Associate Director, National Legislative Service, Veterans of Foreign Wars; and Mr. Richard Jones, National Legislative Director, AMVETS.

On June 24, 2003, the Subcommittee on Health met and unanimously ordered H.R. 2357, as amended, reported favorably to the full Committee.

On June 26, 2003, the full Committee met and ordered H.R. 2357, as amended, reported favorably to the House by voice vote.

#### SUMMARY OF THE REPORTED BILL

H.R. 2357, as amended, would:

1. Authorize the Secretary of Veterans Affairs to appoint chiropractors to the Veterans Health Administration under title 38, United States Code.
2. Require chiropractors to meet the following criteria for Department appointment: hold a degree of doctor of chiropractic or its equivalent from a college of chiropractic approved by the Secretary and be licensed to practice chiropractic in a State.
3. Require chiropractors to be placed under the same grades and pay scale as certain other health care providers.
4. Authorize the Secretary to appoint chiropractors on a full-time, part-time, temporary or without-compensation basis, as well as on a fee basis.
5. Authorize the Secretary to appoint chiropractors to intern or residency positions.
6. Provide chiropractors protection against malpractice and negligence liability.
7. Permit the Secretary to enter into contracts with non-VA institutions should chiropractic services be unavailable.
8. Require the Secretary to reimburse any full-time board certified chiropractor for expenses incurred, up to \$1,000 a year, for continuing professional education.
9. Require chiropractors to observe VA's prescribed hours, conditions of employment, and leaves of absence for clinical professionals.
10. Authorize VA to provide hospital and nursing home care and medical services to certain Filipino World War II veterans of the Philippines Commonwealth Army and former Philippines "New Scout" veterans who permanently reside in the United States, in the same manner as provided to U.S. veterans.
11. Provide that this health care authority for Filipino WWII veterans would not take effect until the Secretary issues a certification to Congress and a notice to the public that re-

sources are sufficient at those VA facilities where the majority of Filipino veterans are authorized to receive care.

#### BACKGROUND AND DISCUSSION

*Chiropractic Services.*—The Committee's previously expressed concerns continue regarding veterans who are enrolled in VA's health care system and who are unable to receive chiropractic care. VA has resisted authorizing this type of specialty care. The Committee has found that chiropractic care is an effective therapy in a number of instances, and can be less costly than other medical approaches to low back pain, back spasm, and other maladies of the spinal region, including health problems caused by the aging process and physical exertion.

Section 303 of Public Law 106–117, the Veterans Millennium Health Care and Benefits Act, requires the Under Secretary for Health to establish a defined policy regarding the role of chiropractic care for veterans enrolled in the Veterans Health Administration (VHA). Almost a year after enactment of that measure, the Under Secretary published VHA Directive 2000–014, establishing what the Department deemed to be a responsive policy on VA chiropractic care. However, the Committee found the policy to be unacceptable. It did not improve veterans' access to chiropractic care in VHA.

As a result, Congress enacted section 204 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 (Public Law 107–135). This Act requires the Secretary to create a program to provide chiropractic care and services for veterans who are enrolled in VA's health care system, and specifies that each of VA's 21 geographic service areas establish at least one chiropractic care program. This law also requires establishment of a chiropractic advisory committee within the Department, and charges the Committee to provide assistance to the Secretary in the development and implementation of the chiropractic health program the law authorizes, including recommendations on scope of practice, qualifications, privileging and credentialing matters, among other factors that might influence the employment of chiropractors and the deployment of a new nationwide VA chiropractic program.

While some progress has been made because of the presence of the advisory committee, the Department has contended that formal organizational, qualification, and classification studies are needed due to VA's lack of a specified employment authority in title 38 of the United States Code to authorize the appointment of VA chiropractors. The Committee believes that VA already possesses authority for these employment matters within the parameters of title 38, United States Code. VA studies could consume years of work, would be a waste of money and may be used to effectively block direct employment of chiropractors.

The Committee bill would address the issue of authority for VA to appoint chiropractors in VHA so that those veterans who are in need of chiropractic care may receive it in VA facilities by VA-appointed chiropractors. This bill would allow doctors of chiropractic to work alongside other health care providers already practicing within VA's health care system. The Committee believes that this can be accomplished by establishing a fair compensation schedule

comparable to those used to set salaries for other categories of health care providers already authorized in title 38, United States Code. Chiropractors would be added to the authorization of compensation for physicians, dentists, podiatrists, and optometrists.

Currently, VA patients who desire to use the services of a chiropractor may only obtain such services on a fee or contract basis, causing administrative expenses and inconveniencing eligible veterans. This bill would permit the Secretary to appoint chiropractors on a full-time, part-time, or intermittent basis, as interns or residents, similar to its authority for appointment of medical practitioners. Also, the Secretary would be required to ensure that chiropractors were placed appropriately within the system to work with other health care practitioners.

*Health Care Benefits for Filipino WWII Veterans in the U.S.*—The Filipino soldiers of World War II served side-by-side with forces from the United States, exhibiting great courage at the epic battles of Bataan and Corregidor and contributing to the successful outcome of the war. After the Philippines became independent, Congress passed the Rescission Act of 1946, reducing or eliminating many of the veterans' benefits Filipino veterans had been eligible for based on service in the Commonwealth Army. Today, almost 60 years later, 60,000 World War II Filipino veterans are alive and continue to seek restoration of these benefits.

On June 13, 2002, (107th Congress), the Subcommittee on Health held a hearing to consider the provision of health care to certain Filipino World War II veterans by the Department of Veterans Affairs. His Excellency Albert Del Rosario, Ambassador to the United States, Embassy of the Philippines, was among the distinguished witnesses who appeared before the Subcommittee in support of expanding access to VA health care for World War II Filipino veterans.

On July 22, 2002, H.R. 3645, the Veterans Health Care and Procurement Improvement Act of 2002, passed the House. Section 5 of that measure contained a provision to provide certain Filipino veterans of World War II who now live in the United States health care benefits on the same basis as if they were veterans of the U.S. armed services. The Senate, however, did not act on the legislation prior to adjournment of the 107th Congress.

The reported bill is similar to section 5 of H.R. 3645; it would provide health care benefits to approximately 14,000 Commonwealth Army and New Philippines Scout veterans who are permanent and legal residents of the United States. In addition, the bill would require the Secretary to issue a certification and a public notice attesting that sufficient resources are available at those Department facilities where the majority of these veterans would receive their care. The Administration supports this provision. See "Additional Views from Administration", p. 10. The Congressional Budget Office estimates that the proposal would cost about \$61 million over the 2004–2008 period.

#### SECTION-BY-SECTION ANALYSIS

Section 1 of the bill would provide that this Act may be cited as the "Veterans Health Care Improvement Act of 2003".

Section 2(a) of the bill would amend section 7401 of title 38, United States Code, to include “chiropractic care” and “chiropractors” so the Secretary may appoint such personnel as necessary for the chiropractic care of veterans.

Section 2(b) of the bill would amend section 7402(b) of title 38, United States Code, to add eligibility requirements for a doctor of chiropractic to be appointed to VA; the requirements would be (1) a degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and (2) the individual must be licensed to practice chiropractic in a State.

Section 2(c) of the bill would amend section 7403(a)(2) of title 38, United States Code, to allow chiropractors, along with other health care professionals, to be appointed to VA if their qualifications meet VA’s hiring criteria.

Section 2(d) of the bill would amend section 7404(b)(1) of title 38, United States Code, to include chiropractors in the prescribed pay grades along with certain other health care professionals.

Section 2(e) of the bill would amend Section 7405(a) of title 38, United States Code, to (1) allow chiropractors to be employed on a temporary, full-time, part-time, or without compensation basis, and (2) allow chiropractors to be employed on a fee basis.

Section 2(f) of the bill would amend section 7406(c) of title 38, United States Code, so that (1) VA may contract with a designated administrative agency to place qualified persons from chiropractic schools or chiropractic installations in intern or residency positions in VA; (2) VA may pay a stipend to a designated administrative agency for those chiropractors in intern or residency positions; (3) the acceptance of stipends by the designated agency shall be in lieu of and constitute a waiver of any payment of stipends or employee benefits to which such chiropractors in intern or residency positions at VA may be entitled to under the provisions of title 38, United States Code, or title 5, United States Code; and (4) the designated administrative agency employing chiropractors in intern or residency positions makes all appropriate tax deductions and maintains all appropriate records pertinent to such deductions and maintains leave accrual records for such individuals.

Section 2(g) of the bill would amend section 7316(a) of title 38, United States Code, to include chiropractors among those VA medical care employees covered by federal malpractice and negligence protections.

Section 2(h) of the bill would amend section 7409(a) of title 38, United States Code, so that the Secretary may enter into contracts with non-Department institutions to supply scarce chiropractic specialist services at VA facilities.

Section 2(i) of the bill would expand the group of health care professionals listed in section 7411 of title 38, United States Code, to allow VA chiropractors to be reimbursed up to \$1,000 a year for continuing professional education.

Section 2(j) of the bill would amend section 7421(b) of title 38, United States Code, so that chiropractors would be required to follow the hours, conditions of employment, and leaves of absence regulations the Secretary prescribes.

Section 2(k) of the bill would require the amendments made by this section to take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Section 3(a) of the bill would amend section 1734 of title 38, United States Code, to authorize the Secretary to furnish hospital and nursing home care and medical services to any individual who is a Commonwealth Army veteran or new Philippine Scout who is residing in the United States and who is a citizen of the United States or who is an alien lawfully admitted to the United States for permanent residence. Such care and services would be subject to the same terms and conditions as they apply to individuals who are veterans as defined in section 101(2) of title 38, United States Code. Service-connected disabilities for purposes of this subchapter (as provided for under section 1735(2) of title 38, United States Code), would be considered to be a service-connected disability for purposes of furnishing such care and services.

Section 3(b) of the bill would provide that the amendment made by subsection 3(a) shall take effect on the date on which the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives, and publishes in the Federal Register a certification that sufficient resources are available to carry out the purpose of section 3 of the bill for the fiscal year during which the certification is submitted and at those facilities where the majority of these veterans would receive their care and services.

#### PERFORMANCE GOALS AND OBJECTIVES

The Department of Veterans Affairs' performance goals and objectives are established in annual performance plans and are subject to the Committee's regular oversight and evaluation by the U.S. General Accounting Office. VA also publishes a performance and accountability report for each fiscal year.

#### STATEMENT OF THE VIEWS OF THE ADMINISTRATION

##### *Health Care Benefits for Filipino WWII Veterans in the U.S.*

*Testimony of Honorable Anthony J. Principi, Secretary, Department of Veterans Affairs, Health Subcommittee Hearing on the health care of Filipino World War II veterans within the Department of Veterans Affairs*

*June 13, 2002*

Before I address the subject of today's hearing, let me first reiterate what has been said concerning last November's meeting between President Bush and President Arroyo of the Philippines. In commemorating the 50th anniversary of the signing of the U.S. Philippine Mutual Defense Treaty, they reaffirmed the strength and warmth of bilateral relations and agreed that the alliance of the United States and the Philippines remains vital to both nations, particularly in the wake of the September 11 attacks. Their meeting was characterized by sincerity and candor and heralded a new era of comprehensive cooperation and friendship between the United States and the Philippines. President Bush also agreed to review the services and benefits that the United States provides for Filipino veterans, and that review has already yielded results.

Mr. Chairman, I am second to none in my admiration of the sacrifices made by Filipinos during World War II. These brave soldiers were called on to defend the Philippine people against superior forces, and, in the face of what should have been a devastating loss, they performed magnificently. The world is indebted to Filipino veterans for their contribution to the Allied victory in World War II.



The Department of Veterans Affairs (VA) has long recognized the unique status and contributions of Filipino veterans. During World War II, the Philippine Islands was a U.S. territory, and its troops fought under U.S. command. There has been no other similar arrangement in recent American history. The special circumstances of Filipino veterans have also been recognized in law. Soon after World War II, legislation was enacted making disabled Filipino veterans and their survivors eligible for compensation at the rate of one Philippine peso for each dollar of compensation authorized. A later change authorized compensation at half the rate paid to U.S. veterans and survivors. In late 2000, Congress increased the rate of compensation for certain Filipino veterans and expanded access to health care and burial services.

Specifically with regard to health care, prior to October 27, 2000, the law authorized VA to provide care in the Manila Outpatient Clinic only for the service-connected conditions of U.S. veterans. The term "U.S. veterans" includes members of the Old Philippine Scouts. With enactment of Public Law 106-377 in October of 2000, Congress authorized VA to begin providing care in the clinic for the non-service-connected conditions of those same U.S. veterans. Filipino veterans, however, including Commonwealth Army veterans and New Philippine Scouts, are not eligible for VA health care in the Philippines. The Philippine Government provides health care to eligible Filipino veterans.

The law regarding care of Filipino veterans residing in the United States also changed. Prior to the enactment of Public Law 106-377, VA was authorized to provide care in the United States only for the service-connected conditions of Commonwealth Army veterans, members of recognized guerilla groups, and New Philippine Scouts. Public Law 106-377 authorized VA to begin providing hospital care, nursing home care, and medical services to veterans of the Commonwealth Army and recognized guerilla forces that have service-connected disabilities on the same basis as U.S. veterans. In short the change allowed these veterans to seek care for their non-service-connected conditions. The change in law did not expand eligibility for New Philippine Scout veterans. They continue to be eligible for care in the United States only on a discretionary basis (within the limits of VA resources) and only for service-connected disabilities.

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Mr. Chairman, VA continues to work with the White House to explore opportunities to enhance our assistance to Filipino veterans. Section 1731 of Title 38 authorizes the President to assist the Republic of the Philippines in fulfilling its responsibilities in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts. I am working to utilize this authority to provide grants of equipment, as well as assistance in installation and maintenance of the equipment, to the Philippine government to improve care at the Veterans Memorial Medical Center in Manila. I anticipate the equipment grants would be for \$500,000 per year.

Mr. Chairman, we look forward to working with Congress to provide appropriate benefits and services for this deserving group of individuals. I personally support the proposal to include former members of the New Philippine Scouts in the ranks of Filipino veterans who are eligible for burial benefits. I believe enactment of legislation to provide for those benefits is possible if the number of beneficiaries, and hence the cost of enactment, is so small that enactment would not trigger the PAYGO requirements of the Omnibus Budget Reconciliation Act of 1990.

## ADDITIONAL VIEWS FROM ADMINISTRATION

*In a letter dated May 12, 2003, Secretary Principi transmitted a draft bill, "To amend title 38, United States Code, to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes" to the Speaker of the House, Honorable J. Dennis Hastert. The proposed legislation would extend health care and certain other benefits to certain Filipino veterans residing legally in the United States. Secretary Principi stated:*

Currently, both Commonwealth Army veterans and new Philippine Scouts are eligible for treatment of service-connected disabilities within the limits of Department facilities. However, Commonwealth Army veterans are also eligible for treatment of non service-connected disabilities in the same manner as a veteran, if they are in receipt of certain compensation and reside legally in the United States. The proposal would extend to new Philippine Scouts who reside legally in the United States the same eligibility for medical care and services of non-service connected disabilities that currently exists for Commonwealth Army veterans, while eliminating the receipt-of-compensation requirement for these veterans and scouts. It would also apply the facilities-resources limitation to all care furnished under this section.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, June 30, 2003

Hon. CHRISTOPHER H. SMITH  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2357, the Veterans Health Care Improvement Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sam Papenfuss, who can be reached at 226-2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director*

Enclosure.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*H.R. 2357, Veterans Health Care Improvement Act of 2003*

*As ordered reported by the House Committee on Veterans' Affairs on  
June 26, 2003*

## SUMMARY

H.R. 2357 would provide new health care benefits to certain Filipino veterans and make it easier for the Department of Veterans Affairs (VA) to hire certain health care workers. The bill would modify the eligibility criteria to allow a greater number of Filipino veterans living in the United States to receive health care from VA. H.R. 2357 also would make it easier for VA to hire chiropractors

by specifically listing chiropractors as medical professionals that VA could hire. In addition, the bill would grant VA the authority to treat chiropractors like other medical professionals with regard to malpractice and negligence, reimbursement of certain education expenses, and collective bargaining.

CBO estimates that implementing the bill would cost \$7 million in 2004 and \$61 million over the 2004–2008 period, assuming appropriation of the estimated amounts.

H.R. 2357 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2357 is shown in the following table. This estimate assumes the legislation will be enacted by the end of fiscal year 2003, that the necessary funds for implementing the bill will be provided for each year, and that outlays will follow historical spending patterns for existing or similar programs. The costs of this legislation fall within budget function 700 (veterans benefits and services).

	By Fiscal Year, in Millions of Dollars					
	2003	2004	2005	2006	2007	2008
Spending Under Current Law for Veterans' Medical Care						
Estimated Authorization Level <sup>1</sup> .....	25,279	26,153	26,987	27,890	28,824	29,452
Estimated Outlays .....	25,677	26,179	26,783	27,655	28,583	29,271
Proposed Changes						
Estimated Authorization Level .....	0	8	16	14	13	12
Estimated Outlays .....	0	7	15	14	13	12
Spending Under H.R. 2357 for Veterans' Medical Care						
Estimated Authorization Level .....	25,279	26,161	27,003	27,904	28,837	29,464
Estimated Outlays .....	25,677	26,186	26,798	27,669	28,596	29,283

<sup>1</sup> The 2003 level is the estimated net amount appropriated for that year. No full-year appropriation has yet been provided for fiscal year 2004. The current-law amounts for the 2004–2008 period assume that appropriations remain at the 2003 level with adjustments for anticipated inflation.

**HEALTH CARE FOR FILIPINO VETERANS.** Under current law, only certain Filipino veterans who served during World War II are eligible for health care benefits from VA. Under section 2 of the bill, any individual who is a veteran of the Philippine Commonwealth Army or a former New Philippine Scout living legally in the United States would be eligible for VA health care benefits provided by VA. Using information from VA, CBO estimates that in 2004 about 9,500 Filipino veterans would qualify for this new benefit and that they would be classified as Category 5 veterans, based on income and other factors. Based on average enrollment and use rates for Category 5 veterans, CBO estimates that about 35 percent of these veterans would use VA health care benefits in 2004 at an estimated cost of \$5,100 per person. After adjusting for mortality, CBO expects that the number of eligible Filipino veterans using VA health care benefits would grow to 2,900 in 2005 as more of these veterans become aware of the benefit, and then gradually decline

to about 1,900 by 2008. Accordingly, CBO estimates that implementing this section would cost \$7 million in 2004 and \$61 million over the 2004–2008 period, assuming appropriation of the estimated amounts.

**CHIROPRACTORS.** Under current law, VA is required to make chiropractic care available to veterans at least one site in each of VA's 21 geographic service areas. Section 1 would make it easier for VA to appoint and hire chiropractors by specifying that they be treated as other medical professionals like podiatrists and optometrists. Based on information from VA, CBO does not expect that implementing this provision would increase the level of spending for chiropractic care that VA would provide beyond what VA is already required to provide under the current law. Thus, the primary effect would be to facilitate the establishment of chiropractic care that VA is already undertaking.

#### INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2357 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

#### ESTIMATE PREPARED BY:

Federal Costs: Sam Papenfuss (226–2840)

Impact on State, Local, and Tribal Governments: David Conway and Gregory Waring (225–3220)

Impact on the Private Sector: Allison Percy (226–2900)

#### ESTIMATE APPROVED BY:

Paul R. Cullinan

Chief for Human Resources Cost Estimates Unit, Budget Analysis Division

#### STATEMENT OF FEDERAL MANDATES

The preceding Congressional Budget Office cost estimate states that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act.

#### STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART II—GENERAL BENEFITS**

\* \* \* \* \*

**CHAPTER 17—HOSPITAL, NURSING HOME,  
DOMICILIARY, AND MEDICAL CARE**

\* \* \* \* \*

**SUBCHAPTER IV—HOSPITAL CARE AND MEDICAL TREATMENT FOR VETERANS IN THE REPUBLIC OF THE PHILIPPINES**

\* \* \* \* \*

**§ 1734. Hospital and nursing home care and medical services in the United States**

[(a) The Secretary, within the limits of Department facilities, may furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts for the treatment of the service-connected disabilities of such veterans and scouts.

[(b) An individual who is in receipt of benefits under subchapter II or IV of chapter 11 of this title paid by reason of service described in section 107(a) of this title who is residing in the United States and who is a citizen of, or an alien lawfully admitted for permanent residence in, the United States shall be eligible for hospital and nursing home care and medical services in the same manner as a veteran, and the disease or disability for which such benefits are paid shall be considered to be a service-connected disability for purposes of this chapter.]

*(a) The Secretary shall furnish hospital and nursing home care and medical services to any individual described in subsection (b) in the same manner, and subject to the same terms and conditions, as apply to the furnishing of such care and services to individuals who are veterans as defined in section 101(2) of this title. Any disability of an individual described in subsection (b) that is a service-connected disability for purposes of this subchapter (as provided for under section 1735(2) of this title) shall be considered to be a service-connected disability for purposes of furnishing care and services under the preceding sentence.*

*(b) Subsection (a) applies to any individual who is a Commonwealth Army veteran or new Philippine Scout and who—*

*(1) is residing in the United States; and*

(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

\* \* \* \* \*

**PART V—BOARDS, ADMINISTRATIONS, AND SERVICES**

\* \* \* \* \*

**CHAPTER 73—VETERANS HEALTH ADMINISTRATION—ORGANIZATION AND FUNCTIONS**

\* \* \* \* \*

**SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION**

\* \* \* \* \*

**§ 7316. Malpractice and negligence suits: defense by United States**

(a)(1) The remedy—

(A) against the United States provided by sections 1346(b) and 2672 of title 28, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a medical or chiropractic care employee of the Administration in furnishing medical or chiropractic care or treatment while in the exercise of that employee's duties in or for the Administration shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the medical or chiropractic care employee (or employee's estate) whose act or omission gave rise to such claim.

(2) For purposes of paragraph (1), the term "medical or chiropractic care employee of the Administration" means a physician, dentist, podiatrist, chiropractor, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel.

\* \* \* \* \*

**CHAPTER 74—VETERANS HEALTH ADMINISTRATION—PERSONNEL**

\* \* \* \* \*

**SUBCHAPTER I—APPOINTMENTS**

**§ 7401. Appointments in Veterans Health Administration**

There may be appointed by the Secretary such personnel as the Secretary may find necessary for the medical care and chiropractic care of veterans (in addition to those in the Office of the Under Sec-

retary for Health appointed under section 7306 of this title), as follows:

- (1) Physicians, dentists, podiatrists, *chiropractors*, optometrists, registered nurses, physician assistants, and expanded-function dental auxiliaries.

\* \* \* \* \*

**§ 7402. Qualifications of appointees**

(a) \* \* \*

(b)(1) \* \* \*

\* \* \* \* \*

(10) *CHIROPRACTOR*.—To be eligible to be appointed to a chiropractor position, a person must—

(A) hold the degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and

(B) be licensed to practice chiropractic in a State.

[(10)] (11) *OTHER HEALTH-CARE POSITIONS*.—To be appointed as a physician assistant, expanded-function dental auxiliary, certified or registered respiratory therapist, licensed physical therapist, licensed practical or vocational nurse, occupational therapist, dietitian, microbiologist, chemist, biostatistician, medical technologist, dental technologist, or other position, a person must have such medical, dental, scientific, or technical qualifications as the Secretary shall prescribe.

\* \* \* \* \*

**§ 7403. Period of appointments; promotions**

(a)(1) \* \* \*

(2) This section applies to the following persons appointed under this chapter:

(A) \* \* \*

\* \* \* \* \*

(H) *Chiropractors*.

\* \* \* \* \*

**§ 7404. Grades and pay scales**

(a) \* \* \*

(b)(1) The grades for positions provided for in paragraph (1) of section 7401 of this title shall be as follows. The annual ranges of rates of basic pay for those grades shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

PHYSICIAN AND DENTIST SCHEDULE

Director grade.

\* \* \* \* \*

**[CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE]**

*CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE*

Chief grade.

\* \* \* \* \*

**§ 7405. Temporary full-time appointments, part-time appointments, and without-compensation appointments**

(a) The Secretary, upon the recommendation of the Under Secretary for Health, may employ, without regard to civil service or classification laws, rules, or regulations, personnel as follows:

(1) On a temporary full-time basis, part-time basis, or without compensation basis, persons in the following positions:

(A) \* \* \*

\* \* \* \* \*

(E) *Chiropractors.*

(2) On a fee basis, persons in the following positions:

(A) \* \* \*

\* \* \* \* \*

(D) *Chiropractors.*

\* \* \* \* \*

**§ 7406. Residencies and internships**

(a) \* \* \*

\* \* \* \* \*

(c)(1) In order to carry out more efficiently the provisions of subsection (a)(1), the Secretary may contract with one or more hospitals, medical *and chiropractic* schools, or medical *or chiropractic* installations having hospital facilities and participating with the Department in the training of interns or residents to provide, by the designation of one such institution to serve as a central administrative agency, for the central administration—

(A) \* \* \*

\* \* \* \* \*

(2) The Secretary may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Department facility furnishing hospital care or medical services of—

(A) \* \* \*

(B) hospitalization, medical *or chiropractic* care, and life insurance and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Department facility furnishing hospital care or medical services;

\* \* \* \* \*

(3)(A) Any amounts paid by the Secretary to such central administrative agency to cover the cost of hospitalization, medical *or chiropractic* care, or life insurance or other employee benefits shall



be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim such recipient might have to any payment of stipends or employee benefits to which such recipient may be entitled under this title or title 5.

\* \* \* \* \*

**§ 7409. Contracts for scarce medical specialist services**

(a) The Secretary may enter into contracts with institutions and persons described in subsection (b) to provide scarce medical specialist services at Department facilities. Such services may include the services of physicians, dentists, podiatrists, optometrists, *chiropractors*, nurses, physician assistants, expanded-function dental auxiliaries, technicians, and other medical support personnel.

\* \* \* \* \*

**§ 7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses**

The Secretary shall reimburse any full-time board-certified physician [or dentist], *dentist*, or *chiropractic* appointed under section 7401(1) of this title for expenses incurred, up to \$1,000 per year, for continuing professional education.

\* \* \* \* \*

SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

**§ 7421. Personnel administration: in general**

(a) \* \* \*

(b) Subsection (a) refers to the following positions:

(1) \* \* \*

\* \* \* \* \*

(8) *Chiropractors.*

\* \* \* \* \*

