No. 23-178

In the Supreme Court of the United States

PETER VAN DERMARK, PETITIONER

v.

DENIS R. MCDONOUGH, SECRETARY OF VETERANS AFFAIRS

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

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QUESTION PRESENTED

With exceptions that are not applicable here, Section 1724(a) of Title 38 instructs that the VA "shall not furnish" hospital care or medical services outside the United States. 38 U.S.C. 1724(a). Under certain circumstances, Sections 1725 and 1728 of Title 38 direct the Department of Veterans Affairs (VA) to reimburse the costs of "emergency treatment" provided to veterans at non-VA facilities. 38 U.S.C. 1725(a)(1), 1728(a). Sections 1725 and 1728 are silent as to their territorial reach. The question presented is as follows:

Whether a veteran who obtains emergency medical treatment for a nonservice-connected condition at a non-VA facility outside the United States is entitled to reimbursement for the cost of that treatment.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-24a) is reported at 57 F.4th 1374. The opinion of the Court of Appeals for Veterans Claims (Pet. App. 25a-46a) is reported at 34 Vet. App. 204. The opinion of the Board of Veterans' Appeals (Pet. App. 47a-56a) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on January 23, 2023. A petition for rehearing was denied on April 24, 2023 (Pet. App. 57a-58a). On July 7, 2023, the Chief Justice extended the time within which to file a petition for a writ of certiorari to and including August 22, 2023, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. The Department of Veterans Affairs (VA) generally provides medical care to qualifying veterans at medical facilities operated by the VA. See 38 U.S.C. 1705, 1710; 38 C.F.R. 17.36 *et seq.*; 38 C.F.R. 17.43 *et seq*. In certain circumstances, the VA is also authorized to furnish care through non-VA facilities by contracting in advance to pay for that care or by reimbursing the veteran after treatment has been provided. Such payments may be appropriate, for example, if the VA does not operate a full-service medical facility in the State where the covered veteran resides. See 38 U.S.C. 1703(d)(1)(B); see also 38 U.S.C. 1703; 38 C.F.R. 17.4000 *et seq*.

The statutory scheme specifically addresses the VA's authority to "furnish" health care to veterans abroad. Section 1724(a) states that, "[e]xcept as provided in subsections (b) and (c), the Secretary shall not furnish hospital or domiciliary care or medical services outside any State." 38 U.S.C. 1724(a); see 38 U.S.C. 624(a) (1958); Act of Sept. 8, 1958, Pub. L. No. 85-857, 72 Stat. 1144 (originally enacted version).[1] The term "State" includes U.S. States, territories and possessions, the District of Columbia, and Puerto Rico. 38

[1] The Section 1724(a) prohibition dates back to Executive Orders issued by President Roosevelt in 1933 that form the foundation for the modern system of veteran's-benefit law, Exec. Order No. 6094, §§ I, IV (Mar. 31, 1933); Exec. Order No. 6232, §§ I, IV (July 28, 1933), and prohibited any veteran residing abroad from receiving medical treatment furnished by the VA. See Pet. App. 11a n.7. In 1940, Congress "amended" those provisions to allow the VA in its discretion to "furnish[]" hospital care to U.S.-citizen veterans who "are temporarily sojourning or residing abroad, for disabilities due to war service in the armed forces of the United States." Act of Oct. 17, 1940, ch. 893, § 4, 54 Stat. 1195; see Pet. App. 11a n.7.

U.S.C. 101(20). Section 1724(b) authorizes the VA to "furnish hospital care and medical services outside a State" for the treatment of a service-connected disability or as part of a qualifying rehabilitation program. 38 U.S.C. 1724(b)(1). It also authorizes the VA to furnish certain care in the Philippines. See 38 U.S.C. 1724(b)(2)-(e).

Longstanding regulations implement Section 1724 by establishing the Foreign Medical Program. 38 C.F.R. 17.35. The regulations provide that eligible veterans can be reimbursed for treatment received abroad at non-VA facilities where the treatment relates to a service-connected disability, but that (with the exception of certain treatment received in the Philippines) veterans cannot receive reimbursement for treatment abroad for nonservice-connected disabilities. 38 C.F.R. 17.35(a) and (c); see 33 Fed. Reg. 19,011 (Dec. 20, 1968); 24 Fed. Reg. 8327 (Oct. 14, 1959); see also Pet. App. 19a-20a.

Two statutory provisions address emergency care at non-VA facilities. For service-connected conditions, Section 1728 of Title 38 provides that the VA "shall * * * reimburse" eligible veterans for "emergency treatment * * * for which such veterans have made payment, from sources other than the Department." 38 U.S.C. 1728(a); see Veterans Health Care Expansion Act of 1973, Pub. L. No. 93-82, § 106(a), 87 Stat. 183 (originally enacted version). Section 1725 was enacted more than 25 years later and expanded the reimbursement requirement to nonservice-connected conditions. See Veterans Millennium Health Care and Benefits Act, Pub. L. No. 106-117, Tit. I, § 111(a), 113 Stat. 1553 (1999). In its current form, Section 1725 states that the VA "shall reimburse a veteran * * * for the reasonable value of emergency treatment furnished the veteran in

a non-Department facility." 38 U.S.C. 1725. Neither Section 1725 nor Section 1728 explicitly addresses the territorial reach of its requirements.

2. From 1963 to 1976, petitioner served on active duty in the U.S. Navy. Pet. App 2a. The VA has rated petitioner totally disabled based on individual unemployability. *Ibid.* Although petitioner has several service-connected disabilities, none of his service-connected conditions is heart-related; it is undisputed that the treatment at issue here is for a nonservice-connected disability. See *id.* at 1a-2a, 30a.

During the period relevant to this appeal, petitioner resided in Thailand. Pet. App. 2a. In 2016 and 2018, petitioner sought and received treatment for cardiac symptoms at a non-VA medical facility in Bangkok. *Id.* at 30a-31a. In 2016, petitioner asked the VA to reimburse him for medical costs he had already incurred relating to cardiac symptoms, and he notified the VA of his need to undergo surgery for an abdominal aorta aneurysm. *Ibid.* The VA informed petitioner that it could not reimburse him for medical treatment in Thailand unrelated to his service-connected disabilities. *Id.* at 31a. Petitioner subsequently underwent surgery at Bangkok Hospital. *Ibid.* The VA denied petitioner's claim for reimbursement of costs he had incurred, citing 38 U.S.C. 1724 and 38 C.F.R. 17.35 as the bases for the denial. Pet. App. 31a.

In 2018, petitioner experienced renewed cardiac problems. He flew to Guam for testing and observation at the United States Naval Hospital. Pet. App. 31a. He was then transferred to a medical center in Hawaii, where he underwent a coronary catheterization. *Ibid.* The VA paid for this care and for petitioner's accommodation. See *ibid.*; see also 38 U.S.C. 1710(a)(1)(B). Petitioner was

scheduled for surgery at the Hawaii facility, but he "grew dissatisfied with the nursing staff and the outpatient accommodations that VA had arranged and decided to return to Thailand." Pet. App. 31a. Petitioner received medical care for his cardiac condition at Bangkok Hospital. *Ibid.* He then filed a claim for reimbursement for the costs of those services, which the VA denied. *Ibid.*

3. Petitioner challenged the denial of his reimbursement claims for the 2016 and 2018 Bangkok medical treatments. The Board of Veterans' Appeals (Board) denied his appeal. Pet. App. 47a-56a. The Board found that Sections 1725 and 1728, which direct the VA to reimburse veterans for certain emergency medical care, do not apply extraterritorially. *Id.* at 53a. The Board determined that Section 1724 and its implementing regulation (38 C.F.R. 17.35), which address the VA's provision of medical treatment outside the United States, are "the appropriate statute and regulation in this case." Pet. App. 53a. The Board concluded that petitioner was not eligible for reimbursement under Section 1724 because the cardiac condition for which he had received treatment was not service-connected and petitioner was not in a rehabilitation program. *Id.* at 54a.

4. The Court of Appeals for Veterans Claims (Veterans Court) affirmed the Board's decision. Pet. App. 25a-44a; see *id.* at 45a-46a (Greenberg, J., dissenting).

a. At the outset, the Veterans Court noted the existence of a factual dispute as to whether the care petitioner had received constituted emergency treatment, and it "presume[d] solely for argument's sake" that the treatment was properly so characterized. Pet. App. 33a.

The Veterans Court then addressed the application of Section 1724, which states that, except in enumerated circumstances, the VA "shall not furnish hospital or

domiciliary care or medical services outside any State." 38 U.S.C. 1724(a). The court explained that Section 1724 is "the only statutory provision that expressly addresses VA's healthcare obligations outside the United States." Pet. App. 26a. Looking to the ordinary meaning of the word "furnish" at the time of Section 1724's enactment, the court determined that "furnish" encompassed both providing medical services directly and doing so indirectly by paying for another party to provide the treatment. *Id.* at 35a-38a. The court observed that in 1940, when Congress enacted a predecessor statute that authorized the VA to "furnish" medical services abroad for war-related injuries, there were no VA facilities abroad, so that the VA could furnish those services only "by picking up the tab." *Id.* at 39a. The court viewed this drafting history as further evidence that Congress "was using the word 'furnish' in the indirect sense of the Agency arranging or paying for treatment provided by non-VA entities." *Id.* at 41a.

The Veterans Court next explained that "[n]othing in section 1725 or 1728 * * * alter[s] VA's healthcare obligations outside the United States." Pet. App. 42a. Absent a clear indication of extraterritorial application, the court could "not presume that sections 1725 and 1728 were meant to apply in foreign countries like Thailand." *Id.* at 43a. And because Section 1724 is the only statute that addresses "instances in which VA may provide for the medical care veterans receive abroad," it supersedes Sections 1725 and 1728 in the specific circumstance of such care. *Ibid.*; see *id.* at 43a-44a.

b. Judge Greenberg dissented. Pet. App. 45a-46a. In his view, the term "furnish" in Section 1724 is ambiguous, see *id.* at 45a, and he would have applied the veteran's canon to interpret the statute "in a way that helps veterans," *id.* at 46a.

5. The court of appeals affirmed. Pet. App. 1a-24a.

The court of appeals agreed with the Veterans Court's interpretation of Section 1724. Pet. App. 10a-22a. It relied on contemporaneous dictionary definitions, which defined "furnish" as "to provide" or "to provide for." *Id.* at 12a (quoting *Webster's New International Dictionary of the English Language* 1021 (2d ed. 1937) (*Webster's*)). The court further explained that statutory context supported a definition of "furnish-[ing]" care abroad that broadly encompasses direct provision of care by VA, VA's *ex ante* contractual arrangements with third parties, and VA's *ex post* reimbursement for care provided by third parties. *Id.* at 14a (citation omitted); see *id.* at 13a-14a.

The court of appeals observed that, under a narrower interpretation of "furnish," Section 1724(b)'s statement that the VA "may furnish hospital care and medical services outside a State" for service-connected disabilities, 38 U.S.C. 1724(b)(1), would authorize only the direct provision of care at VA facilities. Pet. App. 14a. That approach would contravene the VA's longstanding practice, reflected in decades of regulations, to reimburse veterans for such care provided by non-VA facilities. *Id.* at 14a, 18a-19a. Because petitioner's proffered interpretation of Section 1724 would "benefit some veterans at the expense of others," and the court of appeals "lack[ed] information to compare magnitudes," the court "s[aw] no role for the pro-veteran interpretive canon" in this case. *Id.* at 12a. The court found further support for its interpretation in the history and structure of Section 1724, including legislative history illustrating that Congress specifically understood "furnish" to mean providing medical care "at VA expense." *Id.* at 15a (quoting S. Rep. No. 1469, 85th

Cong., 2d Sess. 5 (1958)) (emphasis omitted); see *id.* at 15a-16a.

The court of appeals then determined that Sections 1725 and 1728 did not override the general prohibition on furnishing medical services abroad. Pet. App. 23a-24a. Relying on this Court's decision in *Epic Systems Corp.* v. *Lewis*, 138 S. Ct. 1612, 1624 (2018), the court explained that "[t]he threshold task is to determine if the provisions can be harmonized." Pet. App. 23a. "Here," the court of appeals determined, "harmonization is straightforward" because Sections 1725 and 1728 make "no mention of treatment abroad." *Id.* at 24a. Accordingly, the court concluded that "[t]he simple textual harmonization of the three provisions is that [Sections] 1728 and 1725 do not apply to treatment abroad when such treatment is outside the limited authorization of [Section] 1724 to furnish such treatment." *Ibid.*

6. The court of appeals denied a petition for rehearing and rehearing en banc, with no noted dissents. Pet. App. 57a-58a.

ARGUMENT

The courts below correctly rejected petitioner's contention that the VA was required to reimburse him for the costs of medical services he had received abroad. Petitioner no longer challenges the lower courts' conclusion that 38 U.S.C. 1724(a) generally prohibits VA reimbursement of veterans for medical treatment administered outside the United States. Petitioner instead argues solely that 38 U.S.C. 1725 and 1728 create an implicit exception to that prohibition in the context of emergency treatment. But that argument fails to give due weight to the presumption against implied repeals or to the presumption against extraterritorial

application of federal statutes. Further review is not warranted.

1. This case does not satisfy the Court's usual criteria for review. Petitioner does not assert a circuit conflict or any conflict with a specific decision of this Court. The Federal Circuit panel's decision was unanimous, and the court of appeals declined to reconsider the decision en banc, with no judge in active service dissenting from that denial or calling for a vote.

2. The decision below is correct.

a. The courts below correctly interpreted Section 1724, which generally prohibits "furnish[ing] hospital or * * * medical services outside any State," 38 U.S.C. 1724(a), to apply to requests for reimbursement for the costs of medical services administered abroad. Pet. App. 10a-22a; *id.* at 35a-42a. Petitioner does not contest that interpretation in this Court. See Pet. 5 (accepting that reimbursing for medical care is an "option[] for furnishing care"); Pet. 19 (criticizing the court of appeals for devoting so much attention to the correct interpretation of the word "furnish" in Section 1724).

The lower courts' interpretation of Section 1724(a) is correct. The ordinary meaning of the word "furnish" encompasses "provid[ing] for" medical services by paying for them. Pet. App. 12a (quoting *Webster's* 1021); see *id.* at 12a-13a. Statutory context strongly indicates that the word is used in that broader sense here. Since (with limited exceptions) the VA does not operate its own facilities outside the United States, defining "furnish" more narrowly as "providing directly" would render Section 1724(b), which *authorizes* the VA to "furnish" treatment abroad for service-connected disability, a virtual nullity. See *id.* at 10a n.6.

The longstanding regulatory scheme that governs the Foreign Medical Program relies on the Section 1724(b) authorization to allow VA reimbursement of veterans for treatment abroad of service-connected disabilities. See p. 3, *supra*. Interpreting the word "furnish" to exclude reimbursement of services provided at a non-VA facility would therefore contravene longstanding regulations and decades of practice. See *NLRB* v. *Noel Canning*, 573 U.S. 513, 525 (2014) (noting that "the longstanding practice of the government can inform [the Court's] determination of what the law is") (citations and internal quotation marks omitted). And it would be inconsistent with the drafting history of Section 1724, since an earlier version of that provision authorized the VA to "furnish[]" medical services to veterans abroad "for disabilities due to war service," Pet. App. 38a (citation and emphasis omitted), at a time when the VA "did not have under its control * * * a single facility outside the United States," *id.* at 40a (citing U.S. Veterans Admin., *Annual Report of the Administrator of Veterans' Affairs for the Fiscal Year Ended June 30, 1941*, at 107-109 (1942)).

Accordingly, petitioner's reimbursement request for medical care provided in Thailand was a request for the VA to "furnish hospital or * * * medical services outside any State." 38 U.S.C. 1724(a). Such reimbursement could be offered only "as provided" in subsection (b) or (c) of Section 1724. *Ibid.* And nothing in those subsections authorizes the VA to furnish emergency treatment in Thailand unrelated to a service-connected disability or a rehabilitation program. See 38 U.S.C. 1724(b) and (c) (addressing treatment of a service-connected disability or as part of a rehabilitation program, and services in the Philippines); see also 38

U.S.C. 1724(d) and (e) (further addressing the provision of medical services in the Philippines).

Sections 1725 and 1728, which require reimbursement of "emergency treatment" in certain circumstances, 38 U.S.C. 1725, 1728, do not create additional exceptions to the Section 1724(a) bar on furnishing treatment abroad. By its express terms, the Section 1724(a) bar on furnishing medical services abroad applies "[e]xcept as provided in subsections (b) and (c) [of Section 1724]." 38 U.S.C. 1724(a). Given that enumeration of a "list of exceptions, with each confined to its specific terms," the courts below properly declined to infer additional exceptions that are "not on the list." *Arellano* v. *McDonough*, 598 U.S. 1, 8 (2023).

In 1973 and 1999, when Congress enacted Sections 1728 and 1725 respectively, see p. 3, *supra*, it did so against the backdrop of the longstanding statutory bar to reimbursing veterans for medical treatment abroad for nonservice-connected disabilities. In enacting those provisions, Congress did not amend the list of exceptions in Section 1724 to add Section 1725 or Section 1728. Nor did it include in Section 1725 or Section 1728 any language suggesting that those provisions apply to emergency treatment administered *abroad*. Instead, both provisions are silent as to their geographic reach. 38 U.S.C. 1725, 1728.

There is consequently no "clearly expressed congressional intention" that Sections 1725 and 1728 operate as an implied repeal, with respect to emergency treatment, of the Section 1724(a) bar on furnishing medical services abroad. *Epic Systems Corp.* v. *Lewis*, 138 S. Ct. 1612, 1624 (2018) (citation omitted). This Court will not infer a statutory repeal "unless the later statute 'expressly contradict[s] the original act' or unless such

a construction 'is absolutely necessary * * * in order that [the] words [of the later statute] shall have any meaning at all.'" *National Ass'n of Home Builders* v. *Defenders of Wildlife*, 551 U.S. 644, 662 (2007) (citation and internal quotation marks omitted); 1A Norman J. Singer & J.D. Shambie Singer, *Statutes and Statutory Construction* § 23:10 (7th ed. 2010) ("The party asserting the implied repeal bears the burden to demonstrate beyond question that the legislature intended in its later legislative action the unequivocal purpose to effect a repeal."). Instead, the Court "strive[s] 'to give effect to [each]'" of Congress's enactments by "harmoniz[ing]" the provisions. *Epic Systems*, 138 S. Ct. at 1624 (citation and internal quotation marks omitted); see *Morton* v. *Mancari*, 417 U.S. 535, 551 (1974).

Here, as the court of appeals explained (see Pet. App. 24a), the three provisions can easily be harmonized. Section 1724 describes when the VA may (and may not) furnish care outside the United States. Sections 1725 and 1728 address emergency medical services but do not specifically address the provision of such services abroad. Sections 1725 and 1728 therefore can naturally be read to establish reimbursement criteria for emergency medical care provided within this country. So construed, those provisions are fully consistent with Section 1724's distinct reimbursement rules for treatment performed outside the United States.

b. In light of that "straightforward" reconciliation, the court of appeals saw no need to invoke the presumption against extraterritorial application of federal statutes. Pet. App. 24a. This Court's extraterritoriality precedents further confirm, however, that Sections

1725 and 1728 do not authorize reimbursement for medical treatment administered abroad.

"It is a longstanding principle of American law that legislation of Congress, unless a contrary intent appears, is meant to apply only within the territorial jurisdiction of the United States." *Morrison* v. *National Australia Bank Ltd.*, 561 U.S. 247, 255 (2010) (citation and internal quotation marks omitted). That presumption reflects the "commonsense notion that Congress generally legislates with domestic concerns in mind." *RJR Nabisco, Inc.* v. *European Cmty.*, 579 U.S. 325, 336 (2016) (quoting *Smith* v. *United States*, 507 U.S. 197, 204 n.5 (1993)).

In recent decisions, this Court has articulated a two-step framework for determining the territorial reach of an Act of Congress. See *Abitron Austria GmbH* v. *Hetronic Int'l, Inc.*, 600 U.S. 412, 417 (2023). First, the Court asks "whether Congress has affirmatively and unmistakably instructed that the provision at issue should apply to foreign conduct." *Id.* at 417-418 (citation and internal quotation marks omitted). Second, "[i]f the statute is not extraterritorial," the Court "look[s] to the statute's 'focus'" to determine "whether the case involves a domestic application of the statute." *RJR Nabisco*, 579 U.S. at 337. A statute's focus "is the object of its solicitude, which can include the conduct it seeks to regulate, as well as the parties and interests it seeks to protect or vindicate." *Abitron*, 600 U.S. at 418 (citation and internal quotation marks omitted). At step two of the framework, a court asks whether the "conduct relevant to [the statute's] focus occurred in United States territory." *Ibid.* (citation and emphasis omitted).

Under that framework, Sections 1725 and 1728 cannot reasonably be read to authorize VA reimbursement

for medical care provided abroad. At step one, neither provision expressly states that it applies to foreign conduct, see 38 U.S.C. 1725, 1728, so the presumption against extraterritorial application has not been overcome. Nor is furnishing emergency medical care abroad a permissible domestic application of Sections 1725 and 1728 at step two. The focus of each provision, *i.e.*, the "object of its solicitude," *Abitron*, 600 U.S. at 418 (citation omitted), is a veteran's "emergency treatment." 38 U.S.C. 1725, 1728. And "the conduct relevant to the statute's focus"—the medical treatment for which petitioner now seeks reimbursement—did not "occur[] in the United States." *Abitron*, 600 U.S. at 418 (citation and emphasis omitted). Requiring the VA to reimburse petitioner for that foreign medical treatment therefore would constitute an impermissible extraterritorial application of the statute.

Properly understood, Sections 1725 and 1728 do not purport to address emergency treatment provided outside the United States. Section 1724 specifically addresses that subject and reflects Congress's effort to define, "affirmatively and unmistakably," the VA's obligations regarding medical treatment provided to veterans abroad. *Abitron*, 600 U.S. at 417 (citation omitted). Under those circumstances, the court of appeals properly declined to construe the more general language of Sections 1725 and 1728 as creating an implied additional exception to Section 1724(a)'s general ban on furnishing medical care "outside any State." 38 U.S.C. 1724(a).

c. Petitioner's contrary arguments are unavailing.

Petitioner accepts the court of appeals' holding that Section 1724(a) generally prohibits reimbursement for medical services provided abroad. See p. 9, *supra*. He

contends, however, that Sections 1725 and 1728 create an implicit exception to that rule on the theory that those later-enacted provisions are "more specific." *E.g.*, Pet. 23-26, 28. That argument disregards the strong presumption against implied repeals and a court's duty to reconcile allegedly conflicting provisions if it can do so. See pp. 11-12, *supra*. In any event, although Sections 1725 and 1728 address a narrower category of medical care (emergency treatment), Section 1724 is more specific in the respect relevant here, since it defines the *geographic reach* of the VA's authority to reimburse veterans for medical care they receive at non-VA facilities. See 38 U.S.C. 1724(a).

Petitioner contends that his reading of Sections 1725 and 1728 gives those provisions (permissible) domestic rather than (impermissible) extraterritorial effect because petitioner requests "funds from the U.S. treasury" and "seek[s] to vindicate a fundamentally domestic interest" of compensating U.S. veterans. Pet. 24 n.6. Those arguments cannot be squared with this Court's extraterritoriality precedents. Neither the presence of "*some* domestic activity" (such as drawing the federal funds used to reimburse the veteran), *Morrison*, 561 U.S. at 266, nor the existence of an *effect* in the United States, see *Abitron*, 600 U.S. at 426, is sufficient to make a particular application of federal law "domestic" when, as here, the conduct that is the statute's "focus" occurs outside the United States.

Petitioner suggests that the focus of Sections 1725 and 1728 is the "U.S. official overseeing the reimbursement of U.S. veterans with funds from the U.S. treasury." Pet. 24 n.6. Each of those provisions, however, refers to "emergency treatment." Those provisions supplement the preexisting statutory framework by

establishing distinct reimbursement criteria for emergency medical treatment, rather than by establishing new or different mechanisms through which U.S. officials process reimbursement requests. 38 U.S.C. 1725, 1728.

Petitioner also invokes (Pet. 29-30) the "veteran's canon," *i.e.*, a presumption that Congress usually legislates with "solicitude" for veterans. *Henderson* v. *Shinseki*, 562 U.S. 428, 440 (2011). That canon provides no basis for adopting petitioner's proposed reading. The veteran's canon "cannot overcome text and structure," *Arellano*, 598 U.S. at 14, but instead applies only in cases of "interpretive doubt," *Brown* v. *Gardner*, 513 U.S. 115, 118 (1994).

Petitioner does not identify any ambiguity that the canon could help to resolve here. The courts below recognized a potential ambiguity in the term "furnish" in Section 1724, but a narrower interpretation of that term is not unambiguously pro-veteran. Instead, limiting that term to the direct provision of care at VA facilities would harm many veterans who receive treatment for service-connected disabilities at non-VA facilities abroad, by rendering Section 1724(b)(1)'s authorization for reimbursement inapplicable to such care. Even assuming that narrow understanding of "furnish" would allow reimbursement for emergency services rendered abroad (notwithstanding the presumption that Sections 1725 and 1728 do not apply extraterritorially), it would at best "benefit some veterans at the expense of others." Pet. App. 12a.

Petitioner identifies no decision of this Court suggesting that the veteran's canon can supersede the presumption against extraterritorial application of United States law or the presumption against implied repeals.

Rather, the canon should be used only as an aid to resolving any residual "interpretive doubt," *Brown*, 513 U.S. at 118, after other principles of statutory interpretation have been applied. No such "interpretive doubt" is present here, both because Section 1724 specifically addresses the circumstances in which the VA may reimburse veterans for the costs of foreign medical treatment, and because Sections 1725 and 1728 contain no language that could rebut the presumption against extraterritoriality.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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