

116TH CONGRESS
1ST SESSION

S. 348

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2019

Mr. MENENDEZ (for himself, Mr. BOOZMAN, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, 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 “Resident Physician
5 Shortage Reduction Act of 2019”.

6 **SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSI-**
7 **TIONS.**

8 (a) IN GENERAL.—Section 1886(h) of the Social Se-
9 curity Act (42 U.S.C. 1395ww(h)) is amended—

1 (1) in paragraph (4)(F)(i), by striking “para-
2 graphs (7) and (8)” and inserting “paragraphs (7),
3 (8), and (9)”;

4 (2) in paragraph (4)(H)(i), by striking “para-
5 graphs (7) and (8)” and inserting “paragraphs (7),
6 (8), and (9)”;

7 (3) in paragraph (7)(E), by inserting “para-
8 graph (9),” after “paragraph (8),”; and

9 (4) by adding at the end the following new
10 paragraph:

11 “(9) DISTRIBUTION OF ADDITIONAL RESIDENCY
12 POSITIONS.—

13 “(A) ADDITIONAL RESIDENCY POSI-
14 TIONS.—

15 “(i) IN GENERAL.—For each of fiscal
16 years 2021 through 2025 (and succeeding
17 fiscal years if the Secretary determines
18 that there are additional residency posi-
19 tions available to distribute under clause
20 (iii)(II)), the Secretary shall increase the
21 otherwise applicable resident limit for each
22 qualifying hospital that submits a timely
23 application under this subparagraph by
24 such number as the Secretary may approve
25 for portions of cost reporting periods oc-

1 curring on or after July 1 of the fiscal year
2 of the increase. Except as provided in
3 clause (iii), the aggregate number of in-
4 creases in the otherwise applicable resident
5 limit under this subparagraph shall be
6 equal to 3,000 in each of fiscal years 2021
7 through 2025, of which at least 1,500 in
8 each such fiscal year shall be used for full-
9 time equivalent residents training in a
10 shortage specialty residency program (as
11 defined in subparagraph (F)(iii)).

12 “(ii) PROCESS FOR DISTRIBUTING PO-
13 SITIONS.—

14 “(I) ROUNDS OF APPLICA-
15 TIONS.—The Secretary shall initiate 5
16 separate rounds of applications for an
17 increase under clause (i), 1 round
18 with respect to each of fiscal years
19 2021 through 2025.

20 “(II) NUMBER AVAILABLE.—In
21 each of such rounds, the aggregate
22 number of positions available for dis-
23 tribution in the fiscal year as a result
24 of an increase in the otherwise appli-
25 cable resident limit (as described in

1 clause (i)) shall be distributed, plus
 2 any additional positions available
 3 under clause (iii).

4 “(III) TIMING.—The Secretary
 5 shall notify hospitals of the number of
 6 positions distributed to the hospital
 7 under this paragraph as result of an
 8 increase in the otherwise applicable
 9 resident limit by January 1 of the fis-
 10 cal year of the increase. Such increase
 11 shall be effective for portions of cost
 12 reporting periods beginning on or
 13 after July 1 of that fiscal year.

14 “(iii) POSITIONS NOT DISTRIBUTED
 15 DURING THE FISCAL YEAR.—

16 “(I) IN GENERAL.—If the num-
 17 ber of resident full-time equivalent po-
 18 sitions distributed under this para-
 19 graph in a fiscal year is less than the
 20 aggregate number of positions avail-
 21 able for distribution in the fiscal year
 22 (as described in clause (i), including
 23 after application of this subclause),
 24 the difference between such number
 25 distributed and such number available

1 for distribution shall be added to the
2 aggregate number of positions avail-
3 able for distribution in the following
4 fiscal year.

5 “(II) EXCEPTION IF POSITIONS
6 NOT DISTRIBUTED BY END OF FISCAL
7 YEAR 2025.—If the aggregate number
8 of positions distributed under this
9 paragraph during the 5-year period of
10 fiscal years 2021 through 2025 is less
11 than 15,000, the Secretary shall, in
12 accordance with the considerations de-
13 scribed in subparagraph (B)(i) and
14 the priority described in subparagraph
15 (B)(ii), conduct an application and
16 distribution process in each subse-
17 quent fiscal year until such time as
18 the aggregate amount of positions dis-
19 tributed under this paragraph is equal
20 to 15,000.

21 “(B) DISTRIBUTION TO CERTAIN HOS-
22 PITALS.—

23 “(i) CONSIDERATION IN DISTRIBUTION.—In determining for which hospitals
24 the increase in the otherwise applicable
25

1 resident limit is provided under subpara-
 2 graph (A), the Secretary shall take into ac-
 3 count the demonstrated likelihood of the
 4 hospital filling the positions made available
 5 under this paragraph within the first 5
 6 cost reporting periods beginning after the
 7 date the increase would be effective, as de-
 8 termined by the Secretary.

9 “(ii) PRIORITY FOR CERTAIN HOS-
 10 PITALS.—Subject to clause (iii), in deter-
 11 mining for which hospitals the increase in
 12 the otherwise applicable resident limit is
 13 provided under subparagraph (A), the Sec-
 14 retary shall distribute the increase in the
 15 following priority order:

16 “(I) First, to hospitals in States
 17 with (aa) new medical schools that re-
 18 ceived ‘Candidate School’ status from
 19 the Liaison Committee on Medical
 20 Education or that received ‘Pre-Ac-
 21 creditation’ status from the American
 22 Osteopathic Association Commission
 23 on Osteopathic College Accreditation
 24 on or after January 1, 2000, and that
 25 have achieved or continue to progress

toward ‘Full Accreditation’ status (as such term is defined by the Liaison Committee on Medical Education) or toward ‘Accreditation’ status (as such term is defined by the American Osteopathic Association Commission on Osteopathic College Accreditation), or (bb) additional locations and branch campuses established on or after January 1, 2000, by medical schools with ‘Full Accreditation’ status (as such term is defined by the Liaison Committee on Medical Education) or ‘Accreditation’ status (as such term is defined by the American Osteopathic Association Commission on Osteopathic College Accreditation).

“(II) Second, to hospitals in which the resident level of the hospital is greater than the otherwise applicable resident limit during the most recent cost reporting period ending on or before the date of enactment of this paragraph.

1 “(III) Third, to hospitals with
 2 which the Secretary cooperates under
 3 section 7302(d) of title 38, United
 4 States Code.

5 “(IV) Fourth, to hospitals that
 6 emphasize training in community-
 7 based settings or in hospital out-
 8 patient departments.

9 “(V) Fifth, to hospitals that are
 10 not located in a rural area and oper-
 11 ate an approved medical residency
 12 training program (or rural track) in a
 13 rural area or an approved medical
 14 residency training program with an
 15 integrated rural track.

16 “(VI) Sixth, to all other hos-
 17 pitals.

18 “(iii) DISTRIBUTION TO HOSPITALS IN
 19 HIGHER PRIORITY GROUP PRIOR TO DIS-
 20 TRIBUTION IN LOWER PRIORITY GROUPS.—
 21 The Secretary may only distribute an in-
 22 crease under subparagraph (A) to a lower
 23 priority group under clause (ii) if all quali-
 24 fying hospitals in the higher priority group
 25 or groups have received the maximum

number of increases under such subparagraph that the hospital is eligible for under this paragraph for the fiscal year.

“(C) REQUIREMENTS FOR USE OF ADDITIONAL POSITIONS.—

“(i) IN GENERAL.—Subject to clause (ii), a hospital that receives an increase in the otherwise applicable resident limit under subparagraph (A) shall ensure, during the 5-year period beginning on the effective date of such increase, that—

“(I) not less than 50 percent of the positions attributable to such increase are used to train full-time equivalent residents in a shortage specialty residency program (as defined in subclause (F)(iii)), as determined by the Secretary at the end of such 5-year period;

“(II) the total number of full-time equivalent residents, excluding any additional positions attributable to such increase, is not less than the average number of full-time equivalent residents during the 3 most recent

cost reporting periods ending on or
before the effective date of such in-
crease; and

“(III) the ratio of full-time equiv-
alent residents in a shortage specialty
residency program (as so defined) is
not less than the average ratio of full-
time equivalent residents in such a
program during the 3 most recent
cost reporting periods ending on or
before the effective date of such in-
crease.

“(ii) REDISTRIBUTION OF POSITIONS
IF HOSPITAL NO LONGER MEETS CERTAIN
REQUIREMENTS.—In the case where the
Secretary determines that a hospital de-
scribed in clause (i) does not meet the re-
quirements of such clause, the Secretary
shall—

“(I) reduce the otherwise applica-
ble resident limit of the hospital by
the amount by which such limit was
increased under this paragraph; and

“(II) provide for the distribution
of positions attributable to such re-

1 duction in accordance with the re-
2 quirements of this paragraph.

3 “(D) LIMITATION.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), a hospital may not re-
6 ceive more than 75 full-time equivalent ad-
7 ditional residency positions in the aggre-
8 gate under this paragraph over the period
9 of fiscal years 2021 through 2025.

10 “(ii) INCREASE IN NUMBER OF ADDI-
11 TIONAL POSITIONS A HOSPITAL MAY RE-
12 CEIVE.—The Secretary shall increase the
13 aggregate number of full-time equivalent
14 additional residency positions a hospital
15 may receive under this paragraph over
16 such period if the Secretary estimates that
17 the number of positions available for dis-
18 tribution under subparagraph (A) exceeds
19 the number of applications approved under
20 such subparagraph over such period.

21 “(E) APPLICATION OF PER RESIDENT
22 AMOUNTS FOR PRIMARY CARE AND NONPRI-
23 MARY CARE.—With respect to additional resi-
24 dency positions in a hospital attributable to the
25 increase provided under this paragraph, the ap-

proved FTE per resident amounts are deemed to be equal to the hospital per resident amounts for primary care and nonprimary care computed under paragraph (2)(D) for that hospital.

“(F) DEFINITIONS.—In this paragraph:

“(i) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term ‘otherwise applicable resident limit’ means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) of paragraph (4) on the resident level for the hospital determined without regard to this paragraph but taking into account paragraphs (7)(A), (7)(B), (8)(A), and (8)(B).

“(ii) RESIDENT LEVEL.—The term ‘resident level’ has the meaning given such term in paragraph (7)(C)(i).

“(iii) SHORTAGE SPECIALTY RESIDENCY PROGRAM.—The term ‘shortage specialty residency program’ means any approved residency training program in a specialty identified in the report entitled ‘The Physician Workforce: Projections and Research into Current Issues Affecting Supply and Demand’, issued in December

1 2008 by the Health Resources and Serv-
 2 ices Administration, as a specialty whose
 3 baseline physician requirements projections
 4 exceed the projected supply of total active
 5 physicians for the period of 2005 through
 6 2020.”.

7 (b) IME.—

8 (1) IN GENERAL.—Section 1886(d)(5)(B)(v) of
 9 the Social Security Act (42 U.S.C.
 10 1395ww(d)(5)(B)(v)), in the third sentence, is
 11 amended by striking “and (h)(8)” and inserting
 12 “(h)(8), and (h)(9)”.

13 (2) CONFORMING PROVISION.—Section
 14 1886(d)(5)(B) of the Social Security Act (42 U.S.C.
 15 1395ww(d)(5)(B)) is amended—

16 (A) by redesignating clause (x), as added
 17 by section 5505(b) of the Patient Protection
 18 and Affordable Care Act (Public Law 111–
 19 148), as clause (xi) and moving such clause 4
 20 ems to the left; and

21 (B) by adding after clause (xi), as redesign-
 22 nated by subparagraph (A), the following new
 23 clause:

24 “(xii) For discharges occurring on or after July
 25 1, 2021, insofar as an additional payment amount

1 under this subparagraph is attributable to resident
 2 positions distributed to a hospital under subsection
 3 (h)(9), the indirect teaching adjustment factor shall
 4 be computed in the same manner as provided under
 5 clause (ii) with respect to such resident positions.”.

6 **SEC. 3. STUDY AND REPORT ON STRATEGIES FOR INCREAS-**
 7 **ING DIVERSITY.**

8 (a) STUDY.—The Comptroller General of the United
 9 States (in this section referred to as the “Comptroller
 10 General”) shall conduct a study on strategies for increas-
 11 ing the diversity of the health professional workforce. Such
 12 study shall include an analysis of strategies for increasing
 13 the number of health professionals from rural, lower in-
 14 come, and underrepresented minority communities, includ-
 15 ing which strategies are most effective for achieving such
 16 goal.

17 (b) REPORT.—Not later than 2 years after the date
 18 of the enactment of this Act, the Comptroller General shall
 19 submit to Congress a report on the study conducted under
 20 subsection (a), together with recommendations for such
 21 legislation and administrative action as the Comptroller
 22 General determines appropriate.

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