

112TH CONGRESS  
1ST SESSION

# S. 1627

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2011

Mr. NELSON of Florida (for himself, Mr. SCHUMER, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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 2011”.

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 2013 through 2017 (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 2013  
7 through 2017, 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 2013 through 2017.

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 2017.—If the aggregate number  
8 of positions distributed under this  
9 paragraph during the 5-year period of  
10 fiscal years 2013 through 2017 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 DISTRIBU-  
24 TION.—In determining for which hospitals  
25 the increase in the otherwise applicable

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

1 toward ‘Full Accreditation’ status (as  
2 such term is defined by the Liaison  
3 Committee on Medical Education) or  
4 toward ‘Accreditation’ status (as such  
5 term is defined by the American Os-  
6 teopathic Association Commission on  
7 Osteopathic College Accreditation), or  
8 (bb) additional locations and branch  
9 campuses established on or after Jan-  
10 uary 1, 2000, by medical schools with  
11 ‘Full Accreditation’ status (as such  
12 term is defined by the Liaison Com-  
13 mittee on Medical Education) or ‘Ac-  
14 creditation’ status (as such term is  
15 defined by the American Osteopathic  
16 Association Commission on Osteo-  
17 pathic College Accreditation).

18 “(II) Second, to hospitals in  
19 which the resident level of the hospital  
20 is greater than the otherwise applica-  
21 ble resident limit during the most re-  
22 cent cost reporting period ending on  
23 or before the date of enactment of  
24 this paragraph.

1                   “(III) Third, to hospitals that  
2                   emphasize training in community  
3                   health center or community-based set-  
4                   tings or in hospital outpatient depart-  
5                   ments.

6                   “(IV) Fourth, to hospitals that  
7                   are eligible for incentive payments  
8                   under section 1886(n) or 1903(t) as  
9                   of the date the hospital submits an  
10                  application for such increase under  
11                  subparagraph (A).

12                  “(V) Fifth, to all other hospitals.

13                  “(iii) DISTRIBUTION TO HOSPITALS IN  
14                  HIGHER PRIORITY GROUP PRIOR TO DIS-  
15                  TRIBUTION IN LOWER PRIORITY GROUPS.—  
16                  The Secretary may only distribute an in-  
17                  crease under subparagraph (A) to a lower  
18                  priority group under clause (ii) if all quali-  
19                  fying hospitals in the higher priority group  
20                  or groups have received the maximum  
21                  number of increases under such subpara-  
22                  graph that the hospital is eligible for under  
23                  this paragraph for the fiscal year.

24                  “(C) REQUIREMENTS FOR USE OF ADDI-  
25                  TIONAL POSITIONS.—



1           “(i) IN GENERAL.—Subject to clause  
2           (ii), a hospital that receives an increase in  
3           the otherwise applicable resident limit  
4           under subparagraph (A) shall ensure, dur-  
5           ing the 5-year period beginning on the ef-  
6           fective date of such increase, that—

7                   “(I) not less than 50 percent of  
8                   the positions attributable to such in-  
9                   crease are used to train full-time  
10                  equivalent residents in a shortage spe-  
11                  cialty residency program (as defined  
12                  in subclause (F)(iii)), as determined  
13                  by the Secretary at the end of such 5-  
14                  year period;

15                  “(II) the total number of full-  
16                  time equivalent residents, excluding  
17                  any additional positions attributable  
18                  to such increase, is not less than the  
19                  average number of full-time equivalent  
20                  residents during the 3 most recent  
21                  cost reporting periods ending on or  
22                  before the effective date of such in-  
23                  crease; and

24                  “(III) the ratio of full-time equiv-  
25                  alent residents in a shortage specialty

1 residency program (as so defined) is  
2 not less than the average ratio of full-  
3 time equivalent residents in such a  
4 program during the 3 most recent  
5 cost reporting periods ending on or  
6 before the effective date of such in-  
7 crease.

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

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

19 “(II) provide for the distribution  
20 of positions attributable to such re-  
21 duction in accordance with the re-  
22 quirements of this paragraph.

23 “(D) LIMITATION.—

24 “(i) IN GENERAL.—Except as pro-  
25 vided in clause (ii), a hospital may not re-

1           ceive more than 75 full-time equivalent ad-  
2           ditional residency positions in the aggre-  
3           gate under this paragraph over the period  
4           of fiscal years 2013 through 2017.

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

16          “(E) APPLICATION OF PER RESIDENT  
17          AMOUNTS FOR PRIMARY CARE AND NONPRI-  
18          MARY CARE.—With respect to additional resi-  
19          dency positions in a hospital attributable to the  
20          increase provided under this paragraph, the ap-  
21          proved FTE per resident amounts are deemed  
22          to be equal to the hospital per resident amounts  
23          for primary care and nonprimary care com-  
24          puted under paragraph (2)(D) for that hospital.

25          “(F) DEFINITIONS.—In this paragraph:

1           “(i) OTHERWISE APPLICABLE RESI-  
2           DENT LIMIT.—The term ‘otherwise appli-  
3           cable resident limit’ means, with respect to  
4           a hospital, the limit otherwise applicable  
5           under subparagraphs (F)(i) and (H) of  
6           paragraph (4) on the resident level for the  
7           hospital determined without regard to this  
8           paragraph but taking into account para-  
9           graphs (7)(A), (7)(B), (8)(A), and (8)(B).

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

13           “(iii) SHORTAGE SPECIALTY RESI-  
14           DENCY PROGRAM.—The term ‘shortage  
15           specialty residency program’ means the fol-  
16           lowing:

17                   “(I) PRIOR TO REPORT ON  
18                   SHORTAGE SPECIALTIES.—Prior to  
19                   the date on which the report of the  
20                   National Health Care Workforce  
21                   Commission is submitted under sec-  
22                   tion 3 of the Resident Physician  
23                   Shortage Reduction Act of 2011, any  
24                   approved residency training program  
25                   in a specialty identified in the report

1 entitled ‘The Physician Workforce:  
2 Projections and Research into Current  
3 Issues Affecting Supply and Demand’,  
4 issued in December 2008 by the  
5 Health Resources and Services Ad-  
6 ministration, as a specialty whose  
7 baseline physician requirements pro-  
8 jections exceed the projected supply of  
9 total active physicians for the period  
10 of 2005 through 2020.

11 “(II) AFTER REPORT ON SHORT-  
12 AGE SPECIALITIES.—On or after the  
13 date on which the report of the Na-  
14 tional Health Care Workforce Com-  
15 mission is submitted under such sec-  
16 tion, any approved residency training  
17 program in a physician specialty iden-  
18 tified in such report as a specialty for  
19 which there is a shortage.”.

20 (b) IME.—

21 (1) IN GENERAL.—Section 1886(d)(5)(B)(v) of  
22 the Social Security Act (42 U.S.C.  
23 1395ww(d)(5)(B)(v)), in the second sentence, is  
24 amended by striking “subsections (h)(7) and (h)(8)”  
25 and inserting “subsections (h)(7), (h)(8), and (h)(9).

1           (2)       CONFORMING       PROVISION.—Section  
2       1886(d)(5)(B) of the Social Security Act (42 U.S.C.  
3       1395ww(d)(5)(B)) is amended—

4                   (A) by redesignating clause (x), as added  
5       by section 5505(b) of the Patient Protection  
6       and Affordable Care Act (Public Law 111–  
7       148), as clause (xi) and moving such clause 4  
8       ems to the left; and

9                   (B) by adding after clause (xi), as redesign-  
10       nated by subparagraph (A), the following  
11       clause:

12                   “(xix) For discharges occurring on or after July  
13       1, 2013, insofar as an additional payment amount  
14       under this subparagraph is attributable to resident  
15       positions distributed to a hospital under subsection  
16       (h)(9), the indirect teaching adjustment factor shall  
17       be computed in the same manner as provided under  
18       clause (ii) with respect to such resident positions.”.

19       **SEC. 3. STUDY AND REPORT BY NATIONAL HEALTH CARE**  
20                   **WORKFORCE COMMISSION.**

21           (a) STUDY.—The National Health Care Workforce  
22       Commission established under section 5101 of the Patient  
23       Protection and Affordable Care Act (Public Law 111–  
24       148) shall conduct a study of the physician workforce.  
25       Such study shall include the identification of physician

1 specialties for which there is a shortage, as defined by the  
2 Commission.

3 (b) REPORT.—Not later than January 1, 2014, the  
4 National Health Care Workforce Commission shall submit  
5 to Congress a report on the study conducted under sub-  
6 section (a), together with recommendations for such legis-  
7 lation and administrative action as the Commission deter-  
8 mines appropriate.

9 **SEC. 4. STUDY AND REPORT ON STRATEGIES FOR INCREAS-**  
10 **ING DIVERSITY.**

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

20 (b) REPORT.—Not later than 2 years after the date  
21 of enactment of this Act, the Comptroller General shall  
22 submit to Congress a report on the study conducted under  
23 subsection (a), together with recommendations for such

- 1 legislation and administrative action as the Comptroller
- 2 General determines appropriate.

