

117TH CONGRESS
1ST SESSION

S. 834

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

MARCH 18, 2021

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 2021”.

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 “and
2 (9)” and inserting “(9), and (10)”;

3 (2) in paragraph (4)(H)(i), by striking “and
4 (9)” and inserting “(9), and (10)”;

5 (3) in paragraph (7)(E), by inserting “para-
6 graph (10),” after “paragraph (9),”; and

7 (4) by adding at the end the following new
8 paragraph:

9 “(10) DISTRIBUTION OF ADDITIONAL RESI-
10 DENCY POSITIONS.—

11 “(A) ADDITIONAL RESIDENCY POSI-
12 TIONS.—

13 “(i) IN GENERAL.—For each of fiscal
14 years 2023 through 2029 (and succeeding
15 fiscal years if the Secretary determines
16 that there are additional residency posi-
17 tions available to distribute under clause
18 (iii)(II)), the Secretary shall increase the
19 otherwise applicable resident limit for each
20 qualifying hospital (as defined in subpara-
21 graph (G)) that submits a timely applica-
22 tion under this subparagraph by such
23 number as the Secretary may approve for
24 portions of cost reporting periods occurring
25 on or after July 1 of the fiscal year of the

1 increase. Except as provided in clause (iii),
2 the aggregate number of increases in the
3 otherwise applicable resident limit under
4 this subparagraph shall be equal to 2,000
5 in each of fiscal years 2023 through 2029.

6 “(ii) PROCESS FOR DISTRIBUTING PO-
7 SITIONS.—

8 “(I) ROUNDS OF APPLICA-
9 TIONS.—The Secretary shall initiate 7
10 separate rounds of applications for an
11 increase under clause (i), 1 round
12 with respect to each of fiscal years
13 2023 through 2029.

14 “(II) NUMBER AVAILABLE.—In
15 each of such rounds, the aggregate
16 number of positions available for dis-
17 tribution in the fiscal year as a result
18 of an increase in the otherwise appli-
19 cable resident limit (as described in
20 clause (i)) shall be distributed, plus
21 any additional positions available
22 under clause (iii).

23 “(III) TIMING.—The Secretary
24 shall notify hospitals of the number of
25 positions distributed to the hospital

1 under this paragraph as result of an
2 increase in the otherwise applicable
3 resident limit by January 31 of the
4 fiscal year of the increase. Such in-
5 crease shall be effective for portions of
6 cost reporting periods beginning on or
7 after July 1 of that fiscal year.

8 “(iii) POSITIONS NOT DISTRIBUTED
9 DURING THE FISCAL YEAR.—

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

24 “(II) EXCEPTION IF POSITIONS
25 NOT DISTRIBUTED BY END OF FISCAL

1 YEAR 2029.—If the aggregate number
2 of positions distributed under this
3 paragraph during the 7-year period of
4 fiscal years 2023 through 2029 is less
5 than 14,000, the Secretary shall, in
6 accordance with the considerations de-
7 scribed in subparagraph (B)(i) and
8 the priority described in subparagraph
9 (B)(ii), conduct an application and
10 distribution process in each subse-
11 quent fiscal year until such time as
12 the aggregate amount of positions dis-
13 tributed under this paragraph is equal
14 to 14,000.

15 “(B) DISTRIBUTION TO CERTAIN HOS-
16 PITALS.—

17 “(i) CONSIDERATION IN DISTRIBUTION.—In determining for which hospitals
18 the increase in the otherwise applicable
19 resident limit is provided under subpara-
20 graph (A), the Secretary shall take into ac-
21 count the demonstrated likelihood of the
22 hospital filling the positions made available
23 under this paragraph within the first 5
24 cost reporting periods beginning after the
25

1 date the increase would be effective, as de-
 2 termined by the Secretary.

3 “(ii) MINIMUM DISTRIBUTION FOR
 4 CERTAIN CATEGORIES OF HOSPITALS.—

5 With respect to the aggregate number of
 6 such positions available for distribution
 7 under this paragraph, the Secretary shall
 8 distribute not less than 10 percent of such
 9 aggregate number to each of the following
 10 categories of hospitals:

11 “(I) Hospitals that are located in
 12 a rural area (as defined in subsection
 13 (d)(2)(D)) or are treated as being lo-
 14 cated in a rural area pursuant to sub-
 15 section (d)(8)(E).

16 “(II) Hospitals in which the ref-
 17 erence resident level of the hospital
 18 (as specified in subparagraph (G)(iii))
 19 is greater than the otherwise applica-
 20 ble resident limit.

21 “(III) Hospitals in States with—

22 “(aa) new medical schools
 23 that received ‘Candidate School’
 24 status from the Liaison Com-
 25 mittee on Medical Education or

1 that received ‘Pre-Accreditation’
2 status from the American Osteo-
3 pathic Association Commission
4 on Osteopathic College Accredita-
5 tion on or after January 1, 2000,
6 and that have achieved or con-
7 tinue to progress toward ‘Full
8 Accreditation’ status (as such
9 term is defined by the Liaison
10 Committee on Medical Edu-
11 cation) or toward ‘Accreditation’
12 status (as such term is defined
13 by the American Osteopathic As-
14 sociation Commission on Osteo-
15 pathic College Accreditation); or

16 “(bb) additional locations
17 and branch campuses established
18 on or after January 1, 2000, by
19 medical schools with ‘Full Ac-
20 creditation’ status (as such term
21 is defined by the Liaison Com-
22 mittee on Medical Education) or
23 ‘Accreditation’ status (as such
24 term is defined by the American
25 Osteopathic Association Commis-

1 sion on Osteopathic College Ac-
2 creditation).

3 “(IV) Hospitals that serve areas
4 designated as health professional
5 shortage areas under section
6 332(a)(1)(A) of the Public Health
7 Service Act, as determined by the Sec-
8 retary.

9 “(C) PROHIBITION ON DISTRIBUTION TO
10 HOSPITALS WITHOUT AN INCREASE AGREE-
11 MENT.—No increase in the otherwise applicable
12 resident limit of a hospital may be made under
13 this paragraph unless such hospital agrees to
14 increase the total number of full-time equivalent
15 residency positions under the approved medical
16 residency training program of such hospital by
17 the number of such positions made available by
18 such increase under this paragraph.

19 “(D) LIMITATION.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), a hospital may not re-
22 ceive more than 75 full-time equivalent ad-
23 ditional residency positions in the aggre-
24 gate under this paragraph and paragraph

(9) over the period of fiscal years 2023 through 2029.

“(ii) INCREASE IN NUMBER OF ADDITIONAL POSITIONS A HOSPITAL MAY RECEIVE.—The Secretary shall increase the aggregate number of full-time equivalent additional residency positions a hospital may receive under this paragraph over such period if the Secretary estimates that the number of positions available for distribution under subparagraph (A) exceeds the number of applications approved under such subparagraph over such period.

“(E) APPLICATION OF PER RESIDENT AMOUNTS FOR PRIMARY CARE AND NONPRIMARY CARE.—With respect to additional residency positions in a hospital attributable to the increase provided under this paragraph, the approved 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) PERMITTING FACILITIES TO APPLY AGGREGATION RULES.—The Secretary shall permit hospitals receiving additional residency

positions attributable to the increase provided under this paragraph to, beginning in the fifth year after the effective date of such increase, apply such positions to the limitation amount under paragraph (4)(F) that may be aggregated pursuant to paragraph (4)(H) among members of the same affiliated group.

“(G) 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) QUALIFYING HOSPITAL.—The term ‘qualifying hospital’ means a hospital described in any of subclauses (I) through (IV) of subparagraph (B)(ii).

“(iii) REFERENCE RESIDENT LEVEL.—The term ‘reference resident level’ means, with respect to a hospital, the resident level for the most recent cost re-

1 porting period of the hospital ending on or
 2 before the date of enactment of this para-
 3 graph, for which a cost report has been
 4 settled (or, if not, submitted (subject to
 5 audit)), as determined by the Secretary.

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

9 (b) IME.—

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

15 (2) CONFORMING PROVISION.—Section
 16 1886(d)(5)(B) of the Social Security Act (42 U.S.C.
 17 1395ww(d)(5)(B)) is amended by adding after
 18 clause (xii) the following new clause:

19 “(xiii) For discharges occurring on or after
 20 July 1, 2023, insofar as an additional payment
 21 amount under this subparagraph is attributable to
 22 resident positions distributed to a hospital under
 23 subsection (h)(10), the indirect teaching adjustment
 24 factor shall be computed in the same manner as pro-

1 vided under clause (ii) with respect to such resident
2 positions.”.

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

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

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

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