

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.

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## 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

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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 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 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 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

1 number of increases under such subpara-  
2 graph that the hospital is eligible for under  
3 this paragraph for the fiscal year.

4 “(C) REQUIREMENTS FOR USE OF ADDI-  
5 TIONAL POSITIONS.—

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

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

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

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

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

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

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

24 “(II) provide for the distribution  
25 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-

1 proved FTE per resident amounts are deemed  
2 to be equal to the hospital per resident amounts  
3 for primary care and nonprimary care com-  
4 puted under paragraph (2)(D) for that hospital.

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

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

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

18 “(iii) SHORTAGE SPECIALTY RESI-  
19 DENCY PROGRAM.—The term ‘shortage  
20 specialty residency program’ means any  
21 approved residency training program in a  
22 specialty identified in the report entitled  
23 ‘The Physician Workforce: Projections and  
24 Research into Current Issues Affecting  
25 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                ated 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.

○