

117TH CONGRESS
2D SESSION

S. 5041

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions in psychiatry and subspecialties.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Ms. STABENOW (for herself, Mr. DAINES, and Mr. MENENDEZ) 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 in psychiatry and subspecialties.

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 “Training Psychiatrists
5 for the Future Act”.

6 **SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSI-**
7 **TIONS IN PSYCHIATRY AND PSYCHIATRY SUB-**
8 **SPECIALTIES.**

9 (a) IN GENERAL.—Section 1886(h) of the Social Se-
10 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) by adding at the end the following new
6 paragraph:

7 “(10) DISTRIBUTION OF ADDITIONAL RESI-
8 DENCY POSITIONS IN PSYCHIATRY AND PSYCHIATRY
9 SUBSPECIALTIES.—

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

12 “(i) IN GENERAL.—For fiscal year
13 2025, and for each succeeding fiscal year
14 until the aggregate number of full-time
15 equivalent residency positions distributed
16 under this paragraph is equal to the aggre-
17 gate number of such positions made avail-
18 able (as specified in clause (ii)(I)), the Sec-
19 retary shall, subject to the succeeding pro-
20 visions of this paragraph, increase the oth-
21 erwise applicable resident limit for each
22 qualifying hospital (as defined in subpara-
23 graph (F)) that submits a timely applica-
24 tion under this subparagraph by such
25 number as the Secretary may approve ef-

1 fective beginning July 1 of the fiscal year
2 of the increase.

3 “(ii) NUMBER AVAILABLE FOR DIS-
4 TRIBUTION.—

5 “(I) TOTAL NUMBER AVAIL-
6 ABLE.—The aggregate number of
7 such positions made available under
8 this paragraph shall be equal to 400.

9 “(II) ANNUAL LIMIT.—The ag-
10 gregate number of such positions so
11 made available shall not exceed 200
12 for a fiscal year.

13 “(iii) DISTRIBUTION FOR PSYCHIATRY
14 OR PSYCHIATRY SUBSPECIALTY
15 RESIDENCIES.—Each of the positions
16 made available under this paragraph shall
17 be in a psychiatry or psychiatry sub-
18 specialty residency (as defined in subpara-
19 graph (F)).

20 “(iv) PROCESS FOR DISTRIBUTING PO-
21 SITIONS.—

22 “(I) ROUNDS OF APPLICA-
23 TIONS.—The Secretary shall initiate a
24 separate round of applications for an
25 increase under clause (i) for each fis-

1 cal year for which such an increase is
2 to be provided.

3 “(II) TIMING.—The Secretary
4 shall notify hospitals of the number of
5 positions distributed to the hospital
6 under this paragraph as a result of an
7 increase in the otherwise applicable
8 resident limit by January 31 of the
9 fiscal year of the increase. Such in-
10 crease shall be effective beginning
11 July 1 of such fiscal year.

12 “(B) DISTRIBUTION.—For purposes of
13 providing an increase in the otherwise applica-
14 ble resident limit under subparagraph (A), the
15 following shall apply:

16 “(i) CONSIDERATIONS IN DISTRIBUTION.—In determining for which qualifying
17 hospitals such an increase is provided
18 under subparagraph (A), the Secretary
19 shall take into account the demonstrated
20 likelihood of the hospital filling the posi-
21 tions made available under this paragraph
22 within the first 5 training years beginning
23 after the date the increase would be effec-
24 tive, as determined by the Secretary.
25

1 “(ii) DISTRIBUTION FOR CERTAIN
2 CATEGORIES OF HOSPITALS.—With respect
3 to the aggregate number of such positions
4 available for distribution under this para-
5 graph, the Secretary shall distribute such
6 aggregate number to the following cat-
7 egories of hospitals:

8 “(I) To hospitals that are located
9 in a rural area (as defined in section
10 1886(d)(2)(D)) or are treated as
11 being located in a rural area pursuant
12 to section 1886(d)(8)(E).

13 “(II) To hospitals in which the
14 reference resident level of the hospital
15 (as specified in subparagraph (F)(iv))
16 is greater than the otherwise applica-
17 ble resident limit.

18 “(III) To hospitals in States
19 with—

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

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

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

1 “(IV) To hospitals that serve
2 areas designated as health profes-
3 sional shortage areas under section
4 332(a)(1)(A) of the Public Health
5 Service Act, as determined by the Sec-
6 retary.

7 “(V) To hospitals located in
8 States with less than 27 residents per
9 100,000 people.

10 “(C) REQUIREMENTS.—

11 “(i) IN GENERAL.—Subject to clause
12 (ii), a hospital that receives an increase in
13 the otherwise applicable resident limit
14 under this paragraph shall ensure, during
15 the 5-year period beginning on the date of
16 such increase, that—

17 “(I) the number of full-time
18 equivalent residents in a psychiatry or
19 psychiatry subspecialty residency (as
20 defined in subparagraph (F)), exclud-
21 ing any additional positions attrib-
22 utable to an increase under this para-
23 graph, is not less than the average
24 number of full-time equivalent resi-
25 dents in such a residency during the

1 3 most recent cost reporting periods
2 ending prior to the date of enactment
3 of this paragraph; and

4 “(II) all of the positions attrib-
5 utable to such increase are in a psy-
6 chiatry or psychiatry subspecialty resi-
7 dency (as determined by the Sec-
8 retary).

9 The Secretary may determine whether a
10 hospital has met the requirements under
11 this clause during such 5-year period in
12 such manner and at such time as the Sec-
13 retary determines appropriate, including at
14 the end of such 5-year period.

15 “(ii) REDISTRIBUTION OF POSITIONS
16 IF HOSPITAL NO LONGER MEETS CERTAIN
17 REQUIREMENTS.—In the case where the
18 Secretary determines that a hospital de-
19 scribed in clause (i) does not meet either
20 of the requirements under subclause (I) or
21 (II) of such clause, the Secretary shall—

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

1 “(II) provide for the distribution
2 of positions attributable to such re-
3 duction in accordance with the re-
4 quirements of this paragraph.

5 “(iii) LIMITATION.—A hospital may
6 not receive more than 10 additional full-
7 time equivalent residency positions under
8 this paragraph.

9 “(iv) PROHIBITION ON DISTRIBUTION
10 TO HOSPITALS WITHOUT AN INCREASE
11 AGREEMENT.—No increase in the other-
12 wise applicable resident limit of a hospital
13 may be made under this paragraph unless
14 such hospital agrees to increase the total
15 number of full-time equivalent residency
16 positions under the approved medical resi-
17 dency training program of such hospital by
18 the number of such positions made avail-
19 able by such increase under this para-
20 graph.

21 “(D) APPLICATION OF PER RESIDENT
22 AMOUNTS FOR NONPRIMARY CARE.—With re-
23 spect to additional residency positions in a hos-
24 pital attributable to the increase provided under
25 this paragraph, the approved FTE per resident

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

4 “(E) PERMITTING FACILITIES TO APPLY
5 AGGREGATION RULES.—The Secretary shall
6 permit hospitals receiving additional residency
7 positions attributable to the increase provided
8 under this paragraph to, beginning in the fifth
9 year after the effective date of such increase,
10 apply such positions to the limitation amount
11 under paragraph (4)(F) that may be aggre-
12 gated pursuant to paragraph (4)(H) among
13 members of the same affiliated group.

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

15 “(i) OTHERWISE APPLICABLE RESI-
16 DENT LIMIT.—The term ‘otherwise appli-
17 cable resident limit’ means, with respect to
18 a hospital, the limit otherwise applicable
19 under subparagraphs (F)(i) and (H) of
20 paragraph (4) on the resident level for the
21 hospital determined without regard to this
22 paragraph but taking into account para-
23 graphs (7)(A), (7)(B), (8)(A), (8)(B), and
24 (9)(A).

1 “(ii) PSYCHIATRY OR PSYCHIATRY
2 SUBSPECIALTY RESIDENCY.—The term
3 ‘psychiatry or psychiatry subspecialty resi-
4 dency’ means a residency in psychiatry as
5 accredited by the Accreditation Council for
6 Graduate Medical Education for the pur-
7 pose of preventing, diagnosing, and treat-
8 ing mental health disorders.

9 “(iii) QUALIFYING HOSPITAL.—The
10 term ‘qualifying hospital’ means a hospital
11 described in any of subclauses (I) through
12 (V) of subparagraph (B)(ii).

13 “(iv) REFERENCE RESIDENT
14 LEVEL.—The term ‘reference resident
15 level’ means, with respect to a hospital, the
16 resident level for the most recent cost re-
17 porting period of the hospital ending on or
18 before the date of enactment of this para-
19 graph, for which a cost report has been
20 settled (or, if not, submitted (subject to
21 audit)), as determined by the Secretary.

22 “(v) RESIDENT LEVEL.—The term
23 ‘resident level’ has the meaning given such
24 term in paragraph (7)(C)(i).”.

1 (b) IME.—Section 1886(d)(5)(B) of the Social Secu-
2 rity Act (42 U.S.C. 1395ww(d)(5)(B)) is amended—

3 (1) in clause (v), in the third sentence, by strik-
4 ing “and (h)(9)” and inserting “(h)(9), and
5 (h)(10)”;

6 (2) by moving clause (xii) 4 ems to the left; and

7 (3) by adding at the end the following new
8 clause:

9 “(xiii) For discharges occurring on or after
10 July 1, 2024, insofar as an additional payment
11 amount under this subparagraph is attributable to
12 resident positions distributed to a hospital under
13 subsection (h)(10), the indirect teaching adjustment
14 factor shall be computed in the same manner as pro-
15 vided under clause (ii) with respect to such resident
16 positions.”.

17 (c) PROHIBITION ON JUDICIAL REVIEW.—Section
18 1886(h)(7)(E) of the Social Security Act (42 U.S.C.
19 1395ww—4(h)(7)(E)) is amended by inserting “para-
20 graph (10),” after “paragraph (8),”.

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