

116TH CONGRESS  
1ST SESSION

# H. R. 1763

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 HOUSE OF REPRESENTATIVES

MARCH 14, 2019

Ms. SEWELL of Alabama (for herself, Mr. KATKO, Ms. TORRES SMALL of New Mexico, and Mr. RODNEY DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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”.

1 **SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSI-**  
 2 **TIONS.**

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

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

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

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

13 (4) by adding at the end the following new  
 14 paragraph:

15 “(9) DISTRIBUTION OF ADDITIONAL RESIDENCY  
 16 POSITIONS.—

17 “(A) ADDITIONAL RESIDENCY POSI-  
 18 TIONS.—

19 “(i) IN GENERAL.—For each of fiscal  
 20 years 2021 through 2025 (and succeeding  
 21 fiscal years if the Secretary determines  
 22 that there are additional residency posi-  
 23 tions available to distribute under clause  
 24 (iv)(II)), the Secretary shall, subject to  
 25 clause (ii) and subparagraph (D), increase  
 26 the otherwise applicable resident limit for

1 each qualifying hospital that submits a  
2 timely application under this subparagraph  
3 by such number as the Secretary may ap-  
4 prove for portions of cost reporting periods  
5 occurring on or after July 1 of the fiscal  
6 year of the increase.

7 “(ii) NUMBER AVAILABLE FOR DIS-  
8 TRIBUTION.—For each such fiscal year,  
9 the Secretary shall determine the total  
10 number of additional residency positions  
11 available for distribution under clause (i)  
12 in accordance with the following:

13 “(I) ALLOCATION TO HOSPITALS  
14 ALREADY OPERATING OVER RESIDENT  
15 LIMIT.—One-third of such number  
16 shall be available for distribution only  
17 to hospitals described in subparagraph  
18 (B).

19 “(II) AGGREGATE LIMITATION.—  
20 Except as provided in clause (iv)(I),  
21 the aggregate number of increases in  
22 the otherwise applicable resident limit  
23 under this subparagraph shall be  
24 equal to 3,000 in each such year.

1 “(iii) PROCESS FOR DISTRIBUTING  
2 POSITIONS.—

3 “(I) ROUNDS OF APPLICA-  
4 TIONS.—The Secretary shall initiate 5  
5 separate rounds of applications for an  
6 increase under clause (i), 1 round  
7 with respect to each of fiscal years  
8 2021 through 2025.

9 “(II) NUMBER AVAILABLE.—In  
10 each of such rounds, the aggregate  
11 number of positions available for dis-  
12 tribution in the fiscal year under  
13 clause (ii) shall be distributed, plus  
14 any additional positions available  
15 under clause (iv).

16 “(III) TIMING.—The Secretary  
17 shall notify hospitals of the number of  
18 positions distributed to the hospital  
19 under this paragraph as a result of an  
20 increase in the otherwise applicable  
21 resident limit by January 1 of the fis-  
22 cal year of the increase. Such increase  
23 shall be effective for portions of cost  
24 reporting periods beginning on or  
25 after July 1 of that fiscal year.

1                   “(iv) POSITIONS NOT DISTRIBUTED  
2 DURING THE FISCAL YEAR.—

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

17                   “(II) EXCEPTION IF POSITIONS  
18 NOT DISTRIBUTED BY END OF FISCAL  
19 YEAR 2025.—If the aggregate number  
20 of positions distributed under this  
21 paragraph during the 5-year period of  
22 fiscal years 2021 through 2025 is less  
23 than 15,000, the Secretary shall, in  
24 accordance with the provisions of  
25 clause (ii) and subparagraph (D) and

1 the considerations and priority de-  
2 scribed in subparagraph (C), conduct  
3 an application and distribution proc-  
4 ess in each subsequent fiscal year  
5 until such time as the aggregate  
6 amount of positions distributed under  
7 this paragraph is equal to 15,000.

8 “(B) ALLOCATION OF DISTRIBUTION FOR  
9 POSITIONS TO HOSPITALS ALREADY OPERATING  
10 OVER RESIDENT LIMIT.—

11 “(i) IN GENERAL.—Subject to clauses  
12 (ii) and (iii), in the case of a hospital in  
13 which the reference resident level of the  
14 hospital (as specified in subparagraph  
15 (G)(iii)) is greater than the otherwise ap-  
16 plicable resident limit, the increase in the  
17 otherwise applicable resident limit under  
18 subparagraph (A) for a fiscal year de-  
19 scribed in such subparagraph shall be an  
20 amount equal to the product of the total  
21 number of additional residency positions  
22 available for distribution under subpara-  
23 graph (A)(ii)(I) for such fiscal year and  
24 the quotient of—

1           “(I) the number of resident posi-  
2           tions by which the reference resident  
3           level of the hospital exceeds the other-  
4           wise applicable resident limit for the  
5           hospital; and

6           “(II) the number of resident po-  
7           sitions by which the reference resident  
8           level of all such hospitals with respect  
9           to which an application is approved  
10          under this paragraph exceeds the oth-  
11          erwise applicable resident limit for  
12          such hospitals.

13          “(ii) REQUIREMENTS.—A hospital de-  
14          scribed in clause (i)—

15                 “(I) is not eligible for an increase  
16                 in the otherwise applicable resident  
17                 limit under this subparagraph unless  
18                 the amount by which the reference  
19                 resident level of the hospital exceeds  
20                 the otherwise applicable resident limit  
21                 is not less than 10 and the hospital  
22                 trains at least 25 percent of the full-  
23                 time equivalent residents of the hos-  
24                 pital in primary care and general sur-

1 gery (as of the date of enactment of  
2 this paragraph); and

3 “(II) shall continue to train at  
4 least 25 percent of the full-time equiv-  
5 alent residents of the hospital in pri-  
6 mary care and general surgery for the  
7 5-year period beginning on such date.

8 In the case where the Secretary determines  
9 that a hospital described in clause (i) no  
10 longer meets the requirement of subclause  
11 (II), the Secretary may reduce the other-  
12 wise applicable resident limit of the hos-  
13 pital by the amount by which such limit  
14 was increased under this subparagraph.

15 “(iii) CLARIFICATION REGARDING ELI-  
16 GIBILITY FOR OTHER ADDITIONAL RESI-  
17 DENCY POSITIONS.—Nothing in this sub-  
18 paragraph shall be construed as preventing  
19 a hospital described in clause (i) from ap-  
20 plying for and receiving additional resi-  
21 dency positions under this paragraph that  
22 are not reserved for distribution under this  
23 subparagraph.

24 “(C) DISTRIBUTION OF OTHER POSI-  
25 TIONS.—For purposes of determining an in-



1           crease in the otherwise applicable resident limit  
2           under subparagraph (A) (other than such an in-  
3           crease described in subparagraph (B)), the fol-  
4           lowing shall apply:

5                   “(i) CONSIDERATIONS IN DISTRIBU-  
6                   TION.—In determining for which hospitals  
7                   such an increase is provided under sub-  
8                   paragraph (A), the Secretary shall take  
9                   into account the demonstrated likelihood of  
10                  the hospital filling the positions made  
11                  available under this paragraph within the  
12                  first 5 cost reporting periods beginning  
13                  after the date the increase would be effec-  
14                  tive, as determined by the Secretary.

15                  “(ii) PRIORITY FOR CERTAIN HOS-  
16                  PITALS.—Subject to clause (iii), in deter-  
17                  mining for which hospitals such an in-  
18                  crease is provided, the Secretary shall dis-  
19                  tribute the increase in the following pri-  
20                  ority order:

21                           “(I) First, to hospitals in States  
22                           with—

23                                   “(aa) new medical schools  
24                                   that received ‘Candidate School’  
25                                   status from the Liaison Com-

1 mittee on Medical Education or  
2 that received ‘Pre-Accreditation’  
3 status from the American Osteo-  
4 pathic Association Commission  
5 on Osteopathic College Accredita-  
6 tion on or after January 1, 2000,  
7 and that have achieved or con-  
8 tinue to progress toward ‘Full  
9 Accreditation’ status (as such  
10 term is defined by the Liaison  
11 Committee on Medical Edu-  
12 cation) or toward ‘Accreditation’  
13 status (as such term is defined  
14 by the American Osteopathic As-  
15 sociation Commission on Osteo-  
16 pathic College Accreditation); or  
17 “(bb) additional locations  
18 and branch campuses established  
19 on or after January 1, 2000, by  
20 medical schools with ‘Full Ac-  
21 creditation’ status (as such term  
22 is defined by the Liaison Com-  
23 mittee on Medical Education) or  
24 ‘Accreditation’ status (as such  
25 term is defined by the American

1 Osteopathic Association Commis-  
2 sion on Osteopathic College Ac-  
3 creditation).

4 “(II) Second, to hospitals with  
5 which the Secretary cooperates under  
6 section 7302(d) of title 38, United  
7 States Code.

8 “(III) Third, to hospitals that  
9 emphasize training in community-  
10 based settings or in hospital out-  
11 patient departments.

12 “(IV) Fourth, to hospitals that  
13 are not located in a rural area and op-  
14 erate an approved medical residency  
15 training program (or rural track) in a  
16 rural area or an approved medical  
17 residency training program with an  
18 integrated rural track.

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

20 “(iii) DISTRIBUTION TO HOSPITALS IN  
21 HIGHER PRIORITY GROUP PRIOR TO DIS-  
22 TRIBUTION IN LOWER PRIORITY GROUPS.—  
23 The Secretary may only distribute such an  
24 increase to a lower priority group under  
25 clause (ii) if all qualifying hospitals in the

1 higher priority group or groups have re-  
2 ceived the maximum number of increases  
3 under such subparagraph that the hospital  
4 is eligible for under this paragraph for the  
5 fiscal year.

6 “(iv) REQUIREMENTS FOR USE OF AD-  
7 DITIONAL POSITIONS.—

8 “(I) IN GENERAL.—Subject to  
9 subclause (II), a hospital that receives  
10 such an increase shall ensure, during  
11 the 5-year period beginning on the ef-  
12 fective date of such increase, that—

13 “(aa) not less than 50 per-  
14 cent of the positions attributable  
15 to such increase that are used in  
16 a given year during such 5-year  
17 period are used to train full-time  
18 equivalent residents in a shortage  
19 specialty residency program (as  
20 defined in subparagraph (G)(iv)),  
21 as determined by the Secretary  
22 at the end of such 5-year period;

23 “(bb) the total number of  
24 full-time equivalent residents, ex-  
25 cluding any additional positions

1           attributable to such increase, is  
2           not less than the average number  
3           of full-time equivalent residents  
4           during the 3 most recent cost re-  
5           porting periods ending on or be-  
6           fore the effective date of such in-  
7           crease; and

8           “(cc) the ratio of full-time  
9           equivalent residents in a shortage  
10          specialty residency program (as  
11          so defined) is not less than the  
12          average ratio of full-time equiva-  
13          lent residents in such a program  
14          during the 3 most recent cost re-  
15          porting periods ending on or be-  
16          fore the effective date of such in-  
17          crease.

18          “(II) REDISTRIBUTION OF POSI-  
19          TIONS IF HOSPITAL NO LONGER  
20          MEETS CERTAIN REQUIREMENTS.—

21          With respect to each fiscal year de-  
22          scribed in subparagraph (A), the Sec-  
23          retary shall determine whether or not  
24          a hospital described in subclause (I)  
25          meets the requirements of such sub-

1 clause. In the case that the Secretary  
2 determines that such a hospital does  
3 not meet such requirements, the Sec-  
4 retary shall—

5 “(aa) reduce the otherwise  
6 applicable resident limit of the  
7 hospital by the amount by which  
8 such limit was increased under  
9 this paragraph; and

10 “(bb) provide for the dis-  
11 tribution of positions attributable  
12 to such reduction in accordance  
13 with the requirements of this  
14 paragraph.

15 “(D) LIMITATION.—A hospital may not re-  
16 ceive more than 75 full-time equivalent addi-  
17 tional residency positions under this paragraph  
18 for any fiscal year.

19 “(E) APPLICATION OF PER RESIDENT  
20 AMOUNTS FOR PRIMARY CARE AND NONPRI-  
21 MARY CARE.—With respect to additional resi-  
22 dency positions in a hospital attributable to the  
23 increase provided under this paragraph, the ap-  
24 proved FTE per resident amounts are deemed  
25 to be equal to the hospital per resident amounts

1 for primary care and nonprimary care com-  
2 puted under paragraph (2)(D) for that hospital.

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

13 “(G) DEFINITIONS.—In this paragraph:

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

23 “(ii) REFERENCE RESIDENT LEVEL.—  
24 Except as otherwise provided in subclause  
25 (II), the term ‘reference resident level’

1 means, with respect to a hospital, the resi-  
2 dent level for the most recent cost report-  
3 ing period of the hospital ending on or be-  
4 fore the date of enactment of this para-  
5 graph, for which a cost report has been  
6 settled (or, if not, submitted (subject to  
7 audit)), as determined by the Secretary.

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

11 “(iv) SHORTAGE SPECIALTY RESI-  
12 DENCY PROGRAM.—The term ‘shortage  
13 specialty residency program’ means any  
14 approved residency training program in a  
15 specialty identified in the report entitled  
16 ‘The Physician Workforce: Projections and  
17 Research into Current Issues Affecting  
18 Supply and Demand’, issued in December  
19 2008 by the Health Resources and Serv-  
20 ices Administration, as a specialty whose  
21 baseline physician requirements projections  
22 exceed the projected supply of total active  
23 physicians for the period of 2005 through  
24 2020.”.



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 “subsections (h)(7) and (h)(8)” and inserting  
5 “subsections (h)(7), (h)(8), and (h)(9)”;

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

10 (3) by adding after clause (xi), as redesignated  
11 by subparagraph (A), the following new clause:

12 “(xii) For discharges occurring on or  
13 after July 1, 2021, insofar as an additional  
14 payment amount under this subparagraph  
15 is attributable to resident positions distrib-  
16 uted to a hospital under subsection (h)(9),  
17 the indirect teaching adjustment factor  
18 shall be computed in the same manner as  
19 provided under clause (ii) with respect to  
20 such resident positions.”.

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

23 (a) STUDY.—The Comptroller General of the United  
24 States (in this section referred to as the “Comptroller  
25 General”) shall conduct a study on strategies for increas-

1 ing the diversity of the health professional workforce. Such  
2 study shall include an analysis of strategies for increasing  
3 the number of health professionals from rural, lower in-  
4 come, and underrepresented minority communities, includ-  
5 ing which strategies are most effective for achieving such  
6 goal.

7 (b) REPORT.—Not later than 2 years after the date  
8 of enactment of this Act, the Comptroller General shall  
9 submit to Congress a report on the study conducted under  
10 subsection (a), together with recommendations for such  
11 legislation and administrative action as the Comptroller  
12 General determines appropriate.

○