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

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.

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 Representatives of the United States of America in Congress assembled,

2 Section 1. Short Title.

3 This Act may be cited as the “Resident Physician Shortage Reduction Act of 2019”.

4
SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.

(a) In general.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

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

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

(3) in paragraph (7)(E), by inserting “paragraph (9),” after “paragraph (8),”; and

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

“(9) DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.—

“(A) ADDITIONAL RESIDENCY POSITIONS.—

“(i) In general.—For each of fiscal years 2021 through 2025 (and succeeding fiscal years if the Secretary determines that there are additional residency positions available to distribute under clause (iv)(II)), the Secretary shall, subject to clause (ii) and subparagraph (D), increase the otherwise applicable resident limit for
each qualifying hospital that submits a timely application under this subparagraph by such number as the Secretary may approve for portions of cost reporting periods occurring on or after July 1 of the fiscal year of the increase.

“(ii) Number available for distribution.—For each such fiscal year, the Secretary shall determine the total number of additional residency positions available for distribution under clause (i) in accordance with the following:

“(I) Allocation to hospitals already operating over resident limit.—One-third of such number shall be available for distribution only to hospitals described in subparagraph (B).

“(II) Aggregate limitation.—Except as provided in clause (iv)(I), the aggregate number of increases in the otherwise applicable resident limit under this subparagraph shall be equal to 3,000 in each such year.
“(iii) Process for distributing positions.—

“(I) Rounds of applications.—The Secretary shall initiate 5 separate rounds of applications for an increase under clause (i), 1 round with respect to each of fiscal years 2021 through 2025.

“(II) Number available.—In each of such rounds, the aggregate number of positions available for distribution in the fiscal year under clause (ii) shall be distributed, plus any additional positions available under clause (iv).

“(III) Timing.—The Secretary shall notify hospitals of the number of positions distributed to the hospital under this paragraph as a result of an increase in the otherwise applicable resident limit by January 1 of the fiscal year of the increase. Such increase shall be effective for portions of cost reporting periods beginning on or after July 1 of that fiscal year.
“(iv) POSITIONS NOT DISTRIBUTED DURING THE FISCAL YEAR.—

“(I) IN GENERAL.—If the number of resident full-time equivalent positions distributed under this paragraph in a fiscal year is less than the aggregate number of positions available for distribution in the fiscal year (as described in clause (ii), including after application of this subclause), the difference between such number distributed and such number available for distribution shall be added to the aggregate number of positions available for distribution in the following fiscal year.

“(II) EXCEPTION IF POSITIONS NOT DISTRIBUTED BY END OF FISCAL YEAR 2025.—If the aggregate number of positions distributed under this paragraph during the 5-year period of fiscal years 2021 through 2025 is less than 15,000, the Secretary shall, in accordance with the provisions of clause (ii) and subparagraph (D) and
the considerations and priority described in subparagraph (C), conduct an application and distribution process in each subsequent fiscal year until such time as the aggregate amount of positions distributed under this paragraph is equal to 15,000.

“(B) Allocation of distribution for positions to hospitals already operating over resident limit.—

“(i) In general.—Subject to clauses (ii) and (iii), in the case of a hospital in which the reference resident level of the hospital (as specified in subparagraph (G)(iii)) is greater than the otherwise applicable resident limit, the increase in the otherwise applicable resident limit under subparagraph (A) for a fiscal year described in such subparagraph shall be an amount equal to the product of the total number of additional residency positions available for distribution under subparagraph (A)(ii)(I) for such fiscal year and the quotient of—
“(I) the number of resident positions by which the reference resident level of the hospital exceeds the otherwise applicable resident limit for the hospital; and

“(II) the number of resident positions by which the reference resident level of all such hospitals with respect to which an application is approved under this paragraph exceeds the otherwise applicable resident limit for such hospitals.

“(ii) REQUIREMENTS.—A hospital described in clause (i)—

“(I) is not eligible for an increase in the otherwise applicable resident limit under this subparagraph unless the amount by which the reference resident level of the hospital exceeds the otherwise applicable resident limit is not less than 10 and the hospital trains at least 25 percent of the full-time equivalent residents of the hospital in primary care and general sur-
gery (as of the date of enactment of
this paragraph); and

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

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

“(iii) Clarification regarding eli-
gibility for other additional resi-
dency positions.—Nothing in this sub-
paragraph shall be construed as preventing
a hospital described in clause (i) from ap-
plying for and receiving additional resi-
dency positions under this paragraph that
are not reserved for distribution under this
subparagraph.

“(C) Distribution of other posi-
tions.—For purposes of determining an in-
crease in the otherwise applicable resident limit under subparagraph (A) (other than such an increase described in subparagraph (B)), the following shall apply:

“(i) CONSIDERATIONS IN DISTRIBUTION.—In determining for which hospitals such an increase is provided under subparagraph (A), the Secretary shall take into account the demonstrated likelihood of the hospital filling the positions made available under this paragraph within the first 5 cost reporting periods beginning after the date the increase would be effective, as determined by the Secretary.

“(ii) PRIORITY FOR CERTAIN HOSPITALS.—Subject to clause (iii), in determining for which hospitals such an increase is provided, the Secretary shall distribute the increase in the following priority order:

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

“(aa) new medical schools that received ‘Candidate School’ status from the Liaison Com-
mittee on Medical Education or that received ‘Pre-Accreditation’ status from the American Osteopathic Association Commission on Osteopathic College Accreditation on or after January 1, 2000, and that have achieved or continue to progress toward ‘Full Accreditation’ status (as such term is defined by the Liaison Committee on Medical Education) or toward ‘Accreditation’ status (as such term is defined by the American Osteopathic Association Commission on Osteopathic College Accreditation); or

“(bb) additional locations and branch campuses established on or after January 1, 2000, by medical schools with ‘Full Accreditation’ status (as such term is defined by the Liaison Committee on Medical Education) or ‘Accreditation’ status (as such term is defined by the American
Osteopathic Association Commission on Osteopathic College Accreditation).

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

“(III) Third, to hospitals that emphasize training in community-based settings or in hospital outpatient departments.

“(IV) Fourth, to hospitals that are not located in a rural area and operate an approved medical residency training program (or rural track) in a rural area or an approved medical residency training program with an integrated rural track.

“(V) Fifth, to all other hospitals.

“(iii) Distribution to hospitals in higher priority group prior to distribution in lower priority groups.—

The Secretary may only distribute such an increase to a lower priority group under clause (ii) if all qualifying hospitals in the
higher priority group or groups have received the maximum number of increases under such subparagraph that the hospital is eligible for under this paragraph for the fiscal year.

“(iv) Requirements for use of additional positions.—

“(I) In general.—Subject to subclause (II), a hospital that receives such an increase shall ensure, during the 5-year period beginning on the effective date of such increase, that—

“(aa) not less than 50 percent of the positions attributable to such increase that are used in a given year during such 5-year period are used to train full-time equivalent residents in a shortage specialty residency program (as defined in subparagraph (G)(iv)), as determined by the Secretary at the end of such 5-year period;

“(bb) the total number of full-time equivalent residents, excluding any additional positions
attributable to such increase, is not less than the average number of full-time equivalent residents during the 3 most recent cost reporting periods ending on or before the effective date of such increase; and

“(cc) the ratio of full-time equivalent residents in a shortage specialty residency program (as so defined) is not less than the average ratio of full-time equivalent residents in such a program during the 3 most recent cost reporting periods ending on or before the effective date of such increase.

“(II) REDISTRIBUTION OF POSITIONS IF HOSPITAL NO LONGER MEETS CERTAIN REQUIREMENTS.—With respect to each fiscal year described in subparagraph (A), the Secretary shall determine whether or not a hospital described in subclause (I) meets the requirements of such sub-
clause. In the case that the Secretary
determines that such a hospital does
not meet such requirements, the Sec-
etary shall—

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

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

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

“(E) APPLICATION OF PER RESIDENT
AMOUNTS FOR PRIMARY CARE AND NONPRI-
MARY CARE.—With respect to additional resi-
dency positions in a hospital attributable to the
increase provided under this paragraph, the ap-
proved 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) Reference resident level.—Except as otherwise provided in subclause (II), the term ‘reference resident level’
means, with respect to a hospital, the resident level for the most recent cost reporting period of the hospital ending on or before the date of enactment of this paragraph, for which a cost report has been settled (or, if not, submitted (subject to audit)), as determined by the Secretary.

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

“(iv) SHORTAGE SPECIALTY RESIDENCY PROGRAM.—The term ‘shortage specialty residency program’ means any approved residency training program in a specialty identified in the report entitled ‘The Physician Workforce: Projections and Research into Current Issues Affecting Supply and Demand’, issued in December 2008 by the Health Resources and Services Administration, as a specialty whose baseline physician requirements projections exceed the projected supply of total active physicians for the period of 2005 through 2020.”.
(b) IME.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(1) in clause (v), in the third sentence, by striking “subsections (h)(7) and (h)(8)” and inserting “subsections (h)(7), (h)(8), and (h)(9)”;

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

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

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

SEC. 3. STUDY AND REPORT ON STRATEGIES FOR INCREASING DIVERSITY.

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

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