

118TH CONGRESS
1ST SESSION

H. R. 2389

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 29, 2023

Ms. SEWELL (for herself and Mr. FITZPATRICK) 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 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 2023”.

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), (8), (9), and (10)” and inserting “para-
7 graphs (7), (8), (9), (10), and (11)”;

8 (2) in paragraph (4)(H)(i), by striking “para-
9 graphs (7), (8), (9), and (10)” and inserting “para-
10 graphs (7), (8), (9), (10), and (11)”;

11 (3) in paragraph (7)(E), by inserting “para-
12 graph (10),” after “paragraph (8),”; and

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

15 “(11) DISTRIBUTION OF ADDITIONAL RESI-
16 DENCY POSITIONS.—

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

19 “(i) IN GENERAL.—For each of fiscal
20 years 2025 through 2031 (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 (as defined in sub-
2 paragraph (H)) that submits a timely ap-
3 plication under this subparagraph by such
4 number as the Secretary may approve for
5 portions of cost reporting periods occurring
6 on or after July 1 of the fiscal year of the
7 increase.

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

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

20 “(II) AGGREGATE LIMITATION.—
21 Except as provided in clause (iv)(I),
22 the aggregate number of increases in
23 the otherwise applicable resident limit
24 under this subparagraph shall be
25 equal to 2,000 in each such year.

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

3 “(I) ROUNDS OF APPLICA-
4 TIONS.—The Secretary shall initiate 7
5 separate rounds of applications for an
6 increase under clause (i), 1 round
7 with respect to each of fiscal years
8 2025 through 2031.

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 2031.—If the aggregate number
20 of positions distributed under this
21 paragraph during the 7-year period of
22 fiscal years 2025 through 2031 is less
23 than 14,000, the Secretary shall, in
24 accordance with the provisions of
25 clause (ii) and subparagraph (E) 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 14,000.

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 (H)(ii)) is greater than the otherwise appli-
16 cable 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 DISTRIBUTION.—In determining for which hospitals
6 such an increase is provided under sub-
7 paragraph (A), the Secretary shall take
8 into account the demonstrated likelihood of
9 the hospital filling the positions made
10 available under this paragraph within the
11 first 5 cost reporting periods beginning
12 after the date the increase would be effec-
13 tive, as determined by the Secretary.

14 “(ii) MINIMUM DISTRIBUTION FOR
15 CERTAIN CATEGORIES OF HOSPITALS.—
16 With respect to the aggregate number of
17 such positions available for distribution
18 under this paragraph, the Secretary shall
19 distribute not less than 10 percent of such
20 aggregate number to each of the following
21 categories of hospitals:
22

23 “(I) Hospitals that are located in
24 a rural area (as defined in subsection
25 (d)(2)(D)) or are treated as being lo-

1 cated in a rural area pursuant to sub-
2 section (d)(8)(E) or are located in
3 Alaska, Hawaii, or a territory of the
4 United States.

5 “(II) Hospitals in which the ref-
6 erence resident level of the hospital
7 (as specified in subparagraph (H)(ii))
8 is greater than the otherwise applica-
9 ble resident limit.

10 “(III) Hospitals in States with—

11 “(aa) new medical schools
12 that received ‘Candidate School’
13 status from the Liaison Com-
14 mittee on Medical Education or
15 that received ‘Pre-Accreditation’
16 status from the American Osteo-
17 pathic Association Commission
18 on Osteopathic College Accredita-
19 tion on or after January 1, 2000,
20 and that have achieved or con-
21 tinue to progress toward ‘Full
22 Accreditation’ status (as such
23 term is defined by the Liaison
24 Committee on Medical Edu-
25 cation) or toward ‘Accreditation’

1 status (as such term is defined
2 by the American Osteopathic As-
3 sociation Commission on Osteo-
4 pathic College Accreditation); or

5 “(bb) additional locations
6 and branch campuses established
7 on or after January 1, 2000, by
8 medical schools with ‘Full Ac-
9 creditation’ status (as such term
10 is defined by the Liaison Com-
11 mittee on Medical Education) or
12 ‘Accreditation’ status (as such
13 term is defined by the American
14 Osteopathic Association Commis-
15 sion on Osteopathic College Ac-
16 creditation).

17 “(IV) Hospitals that serve areas
18 designated as health professional
19 shortage areas under section
20 332(a)(1)(A) of the Public Health
21 Service Act, as determined by the Sec-
22 retary.

23 “(iii) PRIORITIZATION IN DISTRIBUTION TO HPSA HOSPITALS.—In distrib-
24 uting positions to a hospital described in
25

1 clause (ii)(IV), the Secretary shall give pri-
2 ority to hospitals that are affiliated with—

3 “(I) a historically Black medical
4 school (as defined in subparagraph
5 (H)); or

6 “(II) any other school listed in
7 section 326(e)(1) of the Higher Edu-
8 cation Act of 1965 that establishes a
9 medical college.

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

20 “(E) LIMITATION.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clause (ii), a hospital may not re-
23 ceive more than 75 full-time equivalent ad-
24 ditional residency positions in the aggre-
25 gate under this paragraph, paragraph (9),

1 and paragraph (10) over the period of fis-
2 cal years 2025 through 2031.

3 “(ii) INCREASE IN NUMBER OF ADDI-
4 TIONAL POSITIONS A HOSPITAL MAY RE-
5 CEIVE.—The Secretary shall increase the
6 aggregate number of full-time equivalent
7 additional residency positions a hospital
8 may receive under this paragraph over
9 such period if the Secretary estimates that
10 the number of positions available for dis-
11 tribution under subparagraph (A) exceeds
12 the number of applications approved under
13 such subparagraph over such period.

14 “(F) APPLICATION OF PER RESIDENT
15 AMOUNTS FOR PRIMARY CARE AND NONPRI-
16 MARY CARE.—With respect to additional resi-
17 dency positions in a hospital attributable to the
18 increase provided under this paragraph, the ap-
19 proved FTE per resident amounts are deemed
20 to be equal to the hospital per resident amounts
21 for primary care and nonprimary care com-
22 puted under paragraph (2)(D) for that hospital.

23 “(G) PERMITTING FACILITIES TO APPLY
24 AGGREGATION RULES.—The Secretary shall
25 permit hospitals receiving additional residency

1 positions attributable to the increase provided
2 under this paragraph to, beginning in the fifth
3 year after the effective date of such increase,
4 apply such positions to the limitation amount
5 under paragraph (4)(F) that may be aggre-
6 gated pursuant to paragraph (4)(H) among
7 members of the same affiliated group.

8 “(H) DEFINITIONS.—In this paragraph:

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

19 “(ii) REFERENCE RESIDENT LEVEL.—
20 Except as otherwise provided in subclause
21 (II), the term ‘reference resident level’
22 means, with respect to a hospital, the resi-
23 dent level for the most recent cost report-
24 ing period of the hospital ending on or be-
25 fore the date of enactment of this para-

1 graph, for which a cost report has been
2 settled (or, if not, submitted (subject to
3 audit)), as determined by the Secretary.

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

7 “(iv) QUALIFYING HOSPITAL.—The
8 term ‘qualifying hospital’ means a hospital
9 described in subparagraph (B)(i) or any of
10 subclauses (I) through (IV) of subpara-
11 graph (C)(ii).

12 “(v) HISTORICALLY BLACK MEDICAL
13 SCHOOL.—The term ‘historically Black
14 medical school’ means Howard University
15 College of Medicine, Charles R. Drew Uni-
16 versity of Medicine and Science, Meharry
17 Medical College, Morehouse School of Med-
18 icine, Xavier University Graduate School
19 of Health Sciences and Medical School,
20 and Maryland College of Osteopathic Medi-
21 cine at Morgan State University.”.

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

24 (1) in clause (v), in the third sentence, by strik-
25 ing “subsections (h)(7), (h)(8), (h)(9), and (h)(10)”

1 and inserting “subsections (h)(7), (h)(8), (h)(9),
2 (h)(10), and (h)(11)”;

3 (2) by adding after clause (xiii) the following
4 new clause:

5 “(xiv) For discharges occurring on or
6 after July 1, 2026, insofar as an additional
7 payment amount under this subparagraph
8 is attributable to resident positions distrib-
9 uted to a hospital under subsection
10 (h)(11), the indirect teaching adjustment
11 factor shall be computed in the same man-
12 ner as provided under clause (ii) with re-
13 spect to such resident positions.”.

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

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

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

○