

117TH CONGRESS  
1ST SESSION

# S. 2094

To provide for a new building period with respect to the cap on full-time equivalent residents for purposes of payment for graduate medical education costs under the Medicare program for certain hospitals that have established a shortage specialty program.

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IN THE SENATE OF THE UNITED STATES

JUNE 17, 2021

Mr. BARRASSO (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for a new building period with respect to the cap on full-time equivalent residents for purposes of payment for graduate medical education costs under the Medicare program for certain hospitals that have established a shortage specialty program.

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 “Physician Shortage  
5 GME Cap Flex Act of 2021”.

1 **SEC. 2. PROVIDING FOR A NEW BUILDING PERIOD WITH**  
 2 **RESPECT TO THE CAP ON FULL-TIME EQUIV-**  
 3 **ALENT RESIDENTS FOR CERTAIN HOSPITALS**  
 4 **THAT HAVE ESTABLISHED A SHORTAGE SPE-**  
 5 **CIALTY PROGRAM.**

6 Section 1886(h)(4) of the Social Security Act (42  
 7 U.S.C. 1395ww(h)(4)) is amended by adding at the end  
 8 the following new subparagraph:

9 “(L) TREATMENT OF CERTAIN QUALI-  
 10 FYING HOSPITALS.—

11 “(i) IN GENERAL.—For purposes of  
 12 applying this paragraph and section  
 13 413.79 of title 42, Code of Federal Regula-  
 14 tions (or a successor regulation), the Sec-  
 15 retary shall treat, subject to clause (ii), a  
 16 qualifying hospital (as defined in clause  
 17 (iii)) with an approved medical residency  
 18 training program as if such hospital—

19 “(I) had no allopathic or osteo-  
 20 pathic residents in its most recent  
 21 cost reporting period ending on or be-  
 22 fore December 31, 1996; and

23 “(II) began training residents for  
 24 the first time in a new medical resi-  
 25 dency training program (as defined in  
 26 paragraph (l) of such section) begin-

1           ning on the date on which such hos-  
2           pital became a qualifying hospital.

3           “(ii) SPECIAL RULE FOR QUALIFYING  
4           HOSPITALS IN CAP-BUILDING PERIOD.—In  
5           the case of a qualifying hospital with an  
6           approved medical residency training pro-  
7           gram that, excluding the treatment de-  
8           scribed in clause (i), is a hospital that had  
9           no allopathic or osteopathic residents in its  
10          most recent cost reporting period ending  
11          on or before December 31, 1996, and  
12          began training residents for the first time  
13          in a new medical residency training pro-  
14          gram (as defined in paragraph (l) of such  
15          section) during the 5-year period ending on  
16          the date described in clause (i)(II) with re-  
17          spect to such hospital, in lieu of applying  
18          such clause, the Secretary shall provide  
19          that the provisions of subsection (e) of sec-  
20          tion 413.79 of title 42, Code of Federal  
21          Regulations (or a successor regulation),  
22          shall apply with respect to such hospital  
23          for an additional 5 years beyond the period  
24          during which such provisions would other-  
25          wise have applied to such hospital.

1                   “(iii) DEFINITION.—In this subpara-  
2 graph:

3                   “(I) QUALIFYING HOSPITAL.—  
4 The term ‘qualifying hospital’ means  
5 a hospital that—

6                   “(aa) establishes a shortage  
7 specialty program (as defined in  
8 subclause (II)) during the 5-year  
9 period beginning on the date of  
10 the enactment of this subpara-  
11 graph; and

12                   “(bb) submits an application  
13 to the Secretary during such pe-  
14 riod containing such information  
15 as the Secretary may specify.

16                   “(II) SHORTAGE SPECIALTY PRO-  
17 GRAM.—The term ‘shortage specialty  
18 program’ means, with respect to a  
19 hospital located in a geographic area  
20 (as defined by the Secretary), any ap-  
21 proved residency training program in  
22 a specialty for which the Secretary de-  
23 termines that there is a shortage of  
24 physicians practicing such specialty in  
25 such area at the time such program is

1 established. In making such a deter-  
2 mination, the Secretary shall take into  
3 account whether such hospital is lo-  
4 cated in an area—

5 “(aa) without adequate  
6 health care resources (such as in  
7 a rural area or a medically un-  
8 derserved area (as defined by the  
9 Administrator of the Health Re-  
10 sources and Services Administra-  
11 tion));

12 “(bb) experiencing primary  
13 care or specialty physician short-  
14 ages (such as in a health profes-  
15 sional shortage area (as defined  
16 in section 332(a) of the Public  
17 Health Service Act (42 U.S.C.  
18 254e(a))));

19 “(cc) without an adequate  
20 number of approved residency  
21 training programs;

22 “(dd) struggling to expand  
23 or keep approved residency train-  
24 ing programs operational;

1                   “(ee) lacking existing med-  
2                   ical training infrastructure or in  
3                   the process of building such in-  
4                   frastructure;

5                   “(ff) with a low resident-to-  
6                   population ratio;

7                   “(gg) with few full-time  
8                   equivalent resident positions; or

9                   “(hh) with a low physician-  
10                  to-population ratio for physicians  
11                  practicing in the same specialty  
12                  as the shortage specialty program  
13                  concerned.”.

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