

112TH CONGRESS
2D SESSION

H. R. 6562

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

SEPTEMBER 25, 2012

Mr. CROWLEY 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 2012”.

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 2013 through 2017 (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 2013 through 2017.

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 2017.—If the aggregate number
20 of positions distributed under this
21 paragraph during the 5-year period of
22 fiscal years 2013 through 2017 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-

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 Committee on Medical Education or that received ‘Pre-Ac-

1 creditation’ status from the American
2 Osteopathic Association Commission
3 on Osteopathic College Accreditation
4 on or after January 1, 2000, and that
5 have achieved or continue to progress
6 toward ‘Full Accreditation’ status (as
7 such term is defined by the Liaison
8 Committee on Medical Education) or
9 toward ‘Accreditation’ status (as such
10 term is defined by the American Os-
11 teopathic Association Commission on
12 Osteopathic College Accreditation), or
13 (bb) additional locations and branch
14 campuses established on or after Jan-
15 uary 1, 2000, by medical schools with
16 ‘Full Accreditation’ status (as such
17 term is defined by the Liaison Com-
18 mittee on Medical Education) or ‘Ac-
19 creditation’ status (as such term is
20 defined by the American Osteopathic
21 Association Commission on Osteo-
22 pathic College Accreditation).

23 “(II) Second, to hospitals that
24 emphasize training in community
25 health center or community-based set-

1 tings or in hospital outpatient depart-
2 ments.

3 “(III) Third, to hospitals that
4 are eligible for incentive payments
5 under section 1886(n) or 1903(t) as
6 of the date the hospital submits an
7 application for such increase under
8 subparagraph (A).

9 “(IV) Fourth, to all other hos-
10 pitals.

11 “(iii) DISTRIBUTION TO HOSPITALS IN
12 HIGHER PRIORITY GROUP PRIOR TO DIS-
13 TRIBUTION IN LOWER PRIORITY GROUPS.—
14 The Secretary may only distribute such an
15 increase to a lower priority group under
16 clause (ii) if all qualifying hospitals in the
17 higher priority group or groups have re-
18 ceived the maximum number of increases
19 under such subparagraph that the hospital
20 is eligible for under this paragraph for the
21 fiscal year.

22 “(iv) REQUIREMENTS FOR USE OF AD-
23 DITIONAL POSITIONS.—

24 “(I) IN GENERAL.—Subject to
25 subclause (II), a hospital that receives

1 such an increase shall ensure, during
2 the 5-year period beginning on the ef-
3 fective date of such increase, that—

4 “(aa) not less than 50 per-
5 cent of the positions attributable
6 to such increase that are used in
7 a given year during such 5-year
8 period are used to train full-time
9 equivalent residents in a shortage
10 specialty residency program (as
11 defined in subparagraph (G)(v)),
12 as determined by the Secretary
13 at the end of such 5-year period;

14 “(bb) the total number of
15 full-time equivalent residents, ex-
16 cluding any additional positions
17 attributable to such increase, is
18 not less than the average number
19 of full-time equivalent residents
20 during the 3 most recent cost re-
21 porting periods ending on or be-
22 fore the effective date of such in-
23 crease; and

24 “(cc) the ratio of full-time
25 equivalent residents in a shortage

1 specialty residency program (as
2 so defined) is not less than the
3 average ratio of full-time equiva-
4 lent residents in such a program
5 during the 3 most recent cost re-
6 porting periods ending on or be-
7 fore the effective date of such in-
8 crease.

9 “(II) REDISTRIBUTION OF POSI-
10 TIONS IF HOSPITAL NO LONGER
11 MEETS CERTAIN REQUIREMENTS.—

12 With respect to each fiscal year de-
13 scribed in subparagraph (A), the Sec-
14 retary shall determine whether or not
15 a hospital described in subclause (I)
16 meets the requirements of such sub-
17 clause. In the case that the Secretary
18 determines that such a hospital does
19 not meet such requirements, the Sec-
20 retary shall—

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

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

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

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

19 “(F) PERMITTING FACILITIES TO APPLY
20 AGGREGATION RULES.—The Secretary shall
21 permit hospitals receiving additional residency
22 positions attributable to the increase provided
23 under this paragraph to, beginning in the fifth
24 year after the effective date of such increase,
25 apply such positions to the limitation amount

1 under paragraph (4)(F) that may be aggre-
2 gated pursuant to paragraph (4)(H) among
3 members of the same affiliated group.

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

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

14 “(ii) REFERENCE RESIDENT LEVEL.—
15 Except as otherwise provided in subclause
16 (II), the term ‘reference resident level’
17 means, with respect to a hospital, the resi-
18 dent level for the most recent cost report-
19 ing period of the hospital ending on or be-
20 fore the date of enactment of this para-
21 graph, for which a cost report has been
22 settled (or, if not, submitted (subject to
23 audit)), as determined by the Secretary.

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

4 “(iv) SHORTAGE SPECIALTY RESI-
5 DENCY PROGRAM.—The term ‘shortage
6 specialty residency program’ means the fol-
7 lowing:

8 “(I) PRIOR TO REPORT ON
9 SHORTAGE SPECIALTIES.—Prior to
10 the date on which the report of the
11 National Health Care Workforce
12 Commission is submitted under sec-
13 tion 3 of the Resident Physician
14 Shortage Reduction Act of 2012, any
15 approved residency training program
16 in a specialty identified in the report
17 entitled ‘The Physician Workforce:
18 Projections and Research into Current
19 Issues Affecting Supply and Demand’,
20 issued in December 2008 by the
21 Health Resources and Services Ad-
22 ministration, as a specialty whose
23 baseline physician requirements pro-
24 jections exceed the projected supply of

1 total active physicians for the period
2 of 2005 through 2020.

3 “(II) AFTER REPORT ON SHORT-
4 AGE SPECIALITIES.—On or after the
5 date on which the report of the Na-
6 tional Health Care Workforce Com-
7 mission is submitted under such sec-
8 tion, any approved residency training
9 program in a physician specialty iden-
10 tified in such report as a specialty for
11 which there is a shortage.”.

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

14 (1) in clause (v), in the second sentence, by
15 striking “subsections (h)(7) and (h)(8)” and insert-
16 ing “subsections (h)(7), (h)(8), and (h)(9)”;

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

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

23 “(xii) For discharges occurring on or
24 after July 1, 2013, insofar as an additional
25 payment amount under this subparagraph

1 is attributable to resident positions distrib-
2 uted to a hospital under subsection (h)(9),
3 the indirect teaching adjustment factor
4 shall be computed in the same manner as
5 provided under clause (ii) with respect to
6 such resident positions.”.

7 **SEC. 3. STUDY AND REPORT BY NATIONAL HEALTH CARE**
8 **WORKFORCE COMMISSION.**

9 (a) STUDY.—The National Health Care Workforce
10 Commission established under section 5101 of the Patient
11 Protection and Affordable Care Act (Public Law 111–
12 148) shall conduct a study of the physician workforce.
13 Such study shall include the identification of physician
14 specialties for which there is a shortage, as defined by the
15 Commission.

16 (b) REPORT.—Not later than January 1, 2014, the
17 National Health Care Workforce Commission shall submit
18 to Congress a report on the study conducted under sub-
19 section (a), together with recommendations for such legis-
20 lation and administrative action as the Commission deter-
21 mines appropriate.

22 **SEC. 4. STUDY AND REPORT ON STRATEGIES FOR INCREAS-**
23 **ING DIVERSITY.**

24 (a) STUDY.—The Comptroller General of the United
25 States (in this section referred to as the “Comptroller

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

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

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