

114TH CONGRESS
2D SESSION

H. R. 6039

To amend title XVIII of the Social Security Act to redistribute unused residency positions to hospitals in States with shortages of residents and health professionals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2016

Mr. HARDY 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 redistribute unused residency positions to hospitals in States with shortages of residents and health professionals, 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 “Graduate Opportuni-
5 ties in Medical Education Distribution Act of 2016”.

1 **SEC. 2. REDISTRIBUTING UNUSED RESIDENCY POSITIONS**
 2 **TO HOSPITALS IN STATES WITH SHORTAGES**
 3 **OF RESIDENTS AND HEALTH PROFES-**
 4 **SIONALS.**

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

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

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

11 (3) in paragraph (7)(E), by striking “para-
 12 graph (8)” and inserting “paragraph (8) or (9)” be-
 13 fore the period at the end; and

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

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

18 “(A) REDUCTIONS IN LIMIT BASED ON UN-
 19 USED POSITIONS.—

20 “(i) MAKING OF DETERMINATIONS.—

21 Not later than 180 days after the date of
 22 the enactment of this paragraph and each
 23 four years thereafter, the Secretary shall
 24 make a set of reduction determinations (as
 25 defined in clause (ii)).

1 “(ii) SET OF REDUCTION DETERMINA-
2 TIONS DEFINED.—For purposes of this
3 paragraph, the term ‘set of reduction de-
4 terminations’ means determinations with
5 respect to each hospital of whether, with
6 respect to the one-year period ending on
7 the date of such set of reduction deter-
8 minations (referred to in this paragraph as
9 the ‘measurement period’ for such set of
10 reduction determinations), the hospital’s
11 reference resident level (as defined in sub-
12 paragraph (F)(i)) for such period was less
13 than the otherwise applicable resident limit
14 (as defined in subparagraph (F)(iii)) for
15 such hospital and period.

16 “(iii) REDUCTION BASED ON DETER-
17 MINATION.—In the case that, with respect
18 to the measurement period for a set of re-
19 duction determinations, the Secretary de-
20 termines under this subparagraph that the
21 reference resident level of a hospital for
22 such period was less than the otherwise ap-
23 plicable resident limit for such hospital and
24 period, effective for portions of cost report-
25 ing periods occurring after the date of

1 such set of reduction determinations and
2 on or before the date of any subsequent set
3 of reduction determinations under clause
4 (i) (referred to in this paragraph as the
5 ‘consequence period’ for such set of reduc-
6 tion determinations), the otherwise applica-
7 ble resident limit for such hospital shall be
8 reduced by 65 percent of the difference be-
9 tween such otherwise applicable resident
10 limit for the hospital and measurement pe-
11 riod and such reference resident level for
12 the hospital and measurement period (or,
13 in the case that the Secretary determines
14 that, with respect to the consequence pe-
15 riod immediately preceding such con-
16 sequence period, the hospital was a hos-
17 pital described in clause (ii) of subpara-
18 graph (B) that did not meet the require-
19 ments of such clause, by the number de-
20 scribed in clause (iv)).

21 “(iv) NUMBER DESCRIBED.—The
22 number described in this clause, with re-
23 spect to a hospital and consequence period
24 (referred to in this clause as the ‘target
25 consequence period’), is the greater of—

1 “(I) the number by which the
2 otherwise applicable resident limit for
3 such hospital would be reduced for the
4 target consequence period under
5 clause (iii) without the application of
6 this clause; and

7 “(II) the number by which the
8 otherwise applicable resident limit for
9 such hospital was increased for the
10 consequence period that immediately
11 preceded the target consequence pe-
12 riod.

13 “(v) EXCEPTION.—This subparagraph
14 shall not apply to a hospital located in a
15 rural area (as defined in subsection
16 (d)(2)(D)(ii)) with fewer than 250 acute
17 care inpatient beds.

18 “(vi) DETERMINATION TIMING.—In
19 the case of a reduction determination made
20 in a year by the Secretary under clause (i)
21 that is not the first such reduction deter-
22 mination so made, the Secretary shall
23 make such determination on a date that is
24 not later than March 31 of such year.

25 “(B) DISTRIBUTION.—

1 “(i) IN GENERAL.—With respect to
2 each set of reduction determinations under
3 subparagraph (A)(i), the Secretary shall,
4 in accordance with the succeeding provi-
5 sions of this paragraph, increase the other-
6 wise applicable resident limit for each
7 qualifying hospital that submits an appli-
8 cation under this subparagraph by such
9 number as the Secretary may approve for
10 portions of cost reporting periods occurring
11 during the consequence period for such set
12 of reduction determinations. The aggregate
13 number of increases in the otherwise appli-
14 cable resident limit under this subpara-
15 graph for such consequence period shall be
16 equal to the aggregate reduction in such
17 limits attributable to subparagraph (A) (as
18 estimated by the Secretary) for such con-
19 sequence period.

20 “(ii) REQUIREMENTS.—A hospital
21 that receives an increase in the otherwise
22 applicable resident limit under this sub-
23 paragraph for a consequence period shall
24 ensure that, during such consequence pe-
25 riod, the positions resulting from the in-

1 crease under this paragraph will be filled.
2 The Secretary may determine whether a
3 hospital has met the requirements under
4 this clause during such consequence period
5 in such manner and at such time as the
6 Secretary determines appropriate, includ-
7 ing at the end of such period.

8 “(C) CAPACITY CONSIDERATIONS IN RE-
9 DISTRIBUTION.—In determining which hospitals
10 are to receive increases in their otherwise appli-
11 cable resident limits under subparagraph (B)
12 for a consequence period for a set of reduction
13 determinations, the Secretary shall take into ac-
14 count the demonstrated likelihood of each such
15 hospital filling the positions made available
16 under this paragraph within such consequence
17 period, as determined by the Secretary.

18 “(D) PRIORITY IN REDISTRIBUTION.—
19 Subject to subparagraph (C), the Secretary
20 shall select, with respect to a set of reduction
21 determinations under subparagraph (A)(i), the
22 qualifying hospitals that will receive increases
23 under subparagraph (B) in the otherwise appli-
24 cable resident limits for such hospitals for the
25 consequence period for such set of reduction de-

1 terminations. The Secretary shall make such se-
2 lection in a manner that distributes the posi-
3 tions made available to hospitals for such con-
4 sequence period under this paragraph in ac-
5 cordance with the following:

6 “(i) The Secretary shall, with respect
7 to such positions that are so made avail-
8 able for such consequence period, make—

9 “(I) 70 percent of such positions
10 available to hospitals located in low
11 resident-to-population States (as de-
12 fined in subparagraph (F)(iv)); and

13 “(II) 30 percent of such positions
14 available to hospitals located in high
15 HPSA-to-population States (as de-
16 fined in subparagraph (F)(v)).

17 “(ii) The Secretary shall, in accord-
18 ance with clause (i), make such positions
19 available for such consequence period in a
20 manner that prioritizes the distribution of
21 such positions to hospitals that are antici-
22 pated to fill such positions with individuals
23 from residence programs located in the
24 State in which such hospitals are located.

“(E) APPLICATION OF PER RESIDENT AMOUNTS FOR PRIMARY CARE AND NONPRIMARY CARE.—With respect to additional residency positions in a hospital attributable to the increase provided under this paragraph, the approved 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) DEFINITIONS.—In this paragraph:

“(i) REFERENCE RESIDENT LEVEL.—The term ‘reference resident level’ means, with respect to a hospital and measurement period, the resident level for the cost reporting periods of the hospital occurring during such measurement period and for which a cost report has been settled (or, if not, submitted (subject to audit)), as determined by the Secretary.

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

“(iii) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term ‘otherwise applicable resident limit’ means, with respect to

1 a hospital and period, the limit otherwise
 2 applicable under subparagraphs (F)(i) and
 3 (H) of paragraph (4) on the resident level
 4 of the hospital for such period, determined
 5 without regard to this paragraph but tak-
 6 ing into account paragraph (7)(A).

7 “(iv) LOW RESIDENT-TO-POPULATION
 8 STATES.—

9 “(I) IN GENERAL.—The term
 10 ‘low resident-to-population State’
 11 means a State that has a smaller ap-
 12 plicable number than do at least 75
 13 percent of all States.

14 “(II) APPLICABLE NUMBER.—
 15 For purposes of subclause (I), the
 16 term ‘applicable number’ means, with
 17 respect to a State, the number that
 18 results from dividing the number of
 19 residents in the State by the number
 20 of individuals residing in the State.

21 “(v) HIGH HPSA-TO-POPULATION
 22 STATES.—

23 “(I) IN GENERAL.—The term
 24 ‘high HPSA-to-population State’
 25 means a State that has a larger appli-

1 cable number than do at least 90 per-
2 cent of all States.

3 “(II) APPLICABLE NUMBER.—

4 For purposes of subclause (I), the
5 term ‘applicable number’ means, with
6 respect to a State, the number that
7 results from dividing the number of
8 areas in the State designated by the
9 Health Resources & Services Adminis-
10 tration of the Department of Health
11 and Human Services as Health Pro-
12 fessional Shortage Areas by the num-
13 ber of individuals residing in the
14 State.

15 “(G) AFFILIATION.—The provisions of this
16 paragraph shall be applied to hospitals which
17 are members of the same affiliated group (as
18 defined by the Secretary under paragraph
19 (4)(H)(ii)).”.

20 (b) IME.—

21 (1) IN GENERAL.—Section 1886(d)(5)(B)(v) of
22 the Social Security Act (42 U.S.C.
23 1395ww(d)(5)(B)(v)), in the second sentence, is
24 amended by striking “subsections (h)(7) and (h)(8)”

1 and inserting “subsections (h)(7), (h)(8), and
2 (h)(9)”.

3 (2) CONFORMING AMENDMENT.—Section
4 1886(d)(5)(B) of the Social Security Act (42 U.S.C.
5 1395ww(d)(5)(B)) is amended by adding at the end
6 the following clause:

7 “(xii) For discharges occurring on or
8 after the date that is 180 days after the
9 date of the enactment of this clause, inso-
10 far as an additional payment amount
11 under this subparagraph is attributable to
12 resident positions distributed to a hospital
13 under subsection (h)(9)(B), the indirect
14 teaching adjustment factor shall be com-
15 puted in the same manner as provided
16 under clause (ii) with respect to such resi-
17 dent positions.”.

18 (c) CONFORMING AMENDMENT.—Section 422(b)(2)
19 of the Medicare Prescription Drug, Improvement, and
20 Modernization Act of 2003 (Public Law 108–173), as
21 amended by section 5503 of the Patient Protection and
22 Affordable Care Act (Public Law 111–148), is amended
23 by striking “paragraphs (7) and (8)” and inserting “para-
24 graphs (7), (8), and (9).”.

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