

115TH CONGRESS
2D SESSION

S. 2843

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions to help combat the opioid crisis.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2018

Mr. NELSON (for himself and Mr. HELLER) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions to help combat the opioid crisis.

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 “Opioid Workforce Act
5 of 2018”.

6 **SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSI-**
7 **TIONS TO HELP COMBAT OPIOID CRISIS.**

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

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

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

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

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

11 “(9) DISTRIBUTION OF ADDITIONAL RESIDENCY
 12 POSITIONS TO HELP COMBAT OPIOID CRISIS.—

13 “(A) ADDITIONAL RESIDENCY POSI-
 14 TIONS.—For each of fiscal years 2019 through
 15 2023 (and succeeding fiscal years if the Sec-
 16 retary determines that there are additional resi-
 17 dency positions available to distribute under
 18 subparagraph (D)), the Secretary shall increase
 19 the otherwise applicable resident limit for each
 20 qualifying hospital that submits a timely appli-
 21 cation under this subparagraph by such number
 22 as the Secretary may approve for portions of
 23 cost reporting periods occurring on or after
 24 July 1 of the fiscal year of the increase. Except
 25 as provided in subparagraph (B)(iv) or (D), the

1 aggregate number of increases in the otherwise
2 applicable resident limit under this subpara-
3 graph shall be equal to 500 in fiscal year 2019
4 and 500 over the period of fiscal years 2020
5 through 2023, distributed in accordance with
6 the succeeding subparagraphs of this para-
7 graph.

8 “(B) DISTRIBUTION FOR FISCAL YEAR
9 2019.—

10 “(i) IN GENERAL.—For fiscal year
11 2019, the positions available for distribu-
12 tion with respect to the fiscal year as de-
13 scribed in subparagraph (A) shall be dis-
14 tributed to hospitals that have existing es-
15 tablished approved programs in addiction
16 medicine, addiction psychiatry, or pain
17 management as determined by the Sec-
18 retary.

19 “(ii) NUMBER OF POSITIONS HOS-
20 PITAL ELIGIBLE TO RECEIVE.—Subject to
21 clauses (iii) and (iv), the aggregate number
22 of positions a hospital may receive under
23 this subparagraph with respect to fiscal
24 year 2019 is equal to the sum of the fol-
25 lowing:

1 “(I) The number of full-time-
 2 equivalent residents that will be train-
 3 ing in addiction medicine, addiction
 4 psychiatry, or pain management as
 5 determined by the Secretary with re-
 6 spect to the fiscal year.

7 “(II) The associated number of
 8 residents training in a pre-requisite
 9 program, such as internal medicine,
 10 necessary for the number of full-time
 11 residents for the programs described
 12 in subclause (I).

13 “(iii) ADDITIONAL POSITIONS FOR EX-
 14 PANSION OF EXISTING PROGRAM.—If a
 15 hospital demonstrates to the Secretary that
 16 the hospital is planning to increase the
 17 number of full-time-equivalent residents in
 18 existing programs described in clause (i),
 19 the Secretary may increase the number of
 20 positions a hospital is eligible to receive
 21 under clause (ii) in order to accommodate
 22 that expansion, as determined by the Sec-
 23 retary.

24 “(iv) CONSIDERATIONS IN DISTRIBUTION.—The Secretary shall distribute addi-
 25

1 tional residency positions under this sub-
2 paragraph based on—

3 “(I) in the case of positions made
4 available under clause (ii), the dem-
5 onstrated likelihood of the hospital
6 filling such positions by July 1, 2019;
7 and

8 “(II) in the case of positions
9 made available under clause (iii), the
10 demonstrated likelihood of the hos-
11 pital filling such positions within the
12 first three cost reporting periods be-
13 ginning on or after July 1, 2019.

14 “(v) LIMITATION.—Notwithstanding
15 clauses (ii) and (iv), an individual hospital
16 may not receive more than 25 full-time-
17 equivalent residency positions under this
18 subparagraph.

19 “(vi) CLARIFICATION REGARDING
20 AVAILABILITY OF ADDITIONAL POSITIONS
21 IN SUBSEQUENT FISCAL YEARS.—Nothing
22 in this subparagraph shall preclude a hos-
23 pital from receiving additional residency
24 positions under subparagraph (C).

1 “(vii) POSITIONS NOT DISTRIBUTED
 2 DURING THE FISCAL YEAR.—If the number
 3 of resident full-time-equivalent positions
 4 distributed under this subparagraph is less
 5 than the aggregate number of positions
 6 available for distribution in the fiscal year
 7 (as described in subparagraph (A)), the
 8 difference between such number distrib-
 9 uted and such number available for dis-
 10 tribution shall be added to the aggregate
 11 number of positions available for distribu-
 12 tion under subparagraph (C).

13 “(C) DISTRIBUTION FOR FISCAL YEARS
 14 2020 THROUGH 2023.—

15 “(i) IN GENERAL.—For the period of
 16 fiscal years 2020 through 2023, the posi-
 17 tions available for distribution with respect
 18 to such period (as described in subpara-
 19 graph (A), including after application of
 20 subparagraph (B)(vi)) shall be distributed
 21 to hospitals which demonstrate to the Sec-
 22 retary that the hospital—

23 “(I) will establish an approved
 24 program in addiction medicine, addic-

tion psychiatry, or pain management;
and

“(II) will use all of the additional
positions made available under this
subparagraph in such program or a
prerequisite residency program for
such program within the first four
cost reporting periods after the in-
crease would be effective.

“(ii) REQUIREMENTS.—Subject to
clause (iii), a hospital that receives an in-
crease in the otherwise applicable resident
limit under this subparagraph shall ensure,
during the 5-year period beginning after
the date of such increase, that the hospital
uses the positions received under clauses
(i)(I) and (i)(II) for the programs for
which the positions were distributed, or
similar programs (as determined by the
Secretary). The Secretary may determine
whether a hospital has met the require-
ments under this clause during such 5-year
period in such manner and at such time as
the Secretary determines appropriate, in-
cluding at the end of such 5-year period.

1 “(iii) REDISTRIBUTION OF POSITIONS
 2 IF HOSPITAL NO LONGER MEETS CERTAIN
 3 REQUIREMENTS.—In the case where the
 4 Secretary determines that a hospital de-
 5 scribed in clause (ii) does not meet the re-
 6 quirements of such clause, the Secretary
 7 shall—

8 “(I) reduce the otherwise applica-
 9 ble resident limit of the hospital by
 10 the amount by which such limit was
 11 increased under this subparagraph;
 12 and

13 “(II) provide for the distribution
 14 of positions attributable to such re-
 15 duction in accordance with the re-
 16 quirements of this paragraph.

17 “(iv) LIMITATION.—An individual
 18 hospital may not receive more than 25 full-
 19 time-equivalent residency positions under
 20 this subparagraph.

21 “(D) DISTRIBUTION OF REMAINING POSI-
 22 TIONS.—If the aggregate number of positions
 23 distributed under subparagraphs (B) and (C)
 24 during the period of fiscal years 2019 through
 25 2023 is less than 1,000, the Secretary shall dis-

1 tribute the remaining residency positions in suc-
2 ceeding fiscal years according to criteria con-
3 sistent with this paragraph until such time as
4 the aggregate amount of positions distributed
5 under this paragraph is equal to 1,000.

6 “(E) NOTIFICATION.—The Secretary shall
7 notify hospitals of the number of positions dis-
8 tributed to the hospital under this paragraph as
9 a result of an increase in the otherwise applica-
10 ble resident limit by January 1 of the fiscal
11 year of the increase. Such increase shall be ef-
12 fective for portions of cost reporting periods be-
13 ginning on or after July 1 of that fiscal year.

14 “(F) APPLICATION OF PER RESIDENT
15 AMOUNTS FOR PRIMARY CARE AND NON-PRI-
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 non-primary 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

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.

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

(b) IME.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)), in the third sentence, is

1 amended by striking “and (h)(8)” and inserting
2 “(h)(8), and (h)(9)”.

3 (2) CONFORMING PROVISION.—Section
4 1886(d)(5)(B) of the Social Security Act (42 U.S.C.
5 1395ww(d)(5)(B)) is amended—

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

11 (B) by adding after clause (xi), as redesign-
12 nated by subparagraph (A), the following new
13 clause:

14 “(xii) For discharges occurring on or after July
15 1, 2019, insofar as an additional payment amount
16 under this subparagraph is attributable to resident
17 positions distributed to a hospital under subsection
18 (h)(9), the indirect teaching adjustment factor shall
19 be computed in the same manner as provided under
20 clause (ii) with respect to such resident positions.”.

○