

116TH CONGRESS
1ST SESSION

H. R. 4397

To award grants for the recruitment, retention, and advancement of direct care workers.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2019

Mr. SCOTT of Virginia (for himself and Mrs. LEE of Nevada) introduced the following bill; which was referred to the Committee on Education and Labor, 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 award grants for the recruitment, retention, and advancement of direct care workers.

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 “Direct Creation, Ad-
5 vancement, and Retention of Employment Opportunity
6 Act” or the “Direct CARE Opportunity Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) Millions of older individuals and individuals
2 with disabilities in the United States require assist-
3 ance with activities of daily living to live independ-
4 ently and participate in their communities to their
5 fullest extent. The Bureau of the Census projects
6 that by 2060 the population of individuals age 65 or
7 older will double from 49,200,000 in 2016 to
8 94,700,000. According to the Centers for Disease
9 Control and Prevention, 1 in 4 (or 60,000,000)
10 adults in the United States are living with a dis-
11 ability.

12 (2) The assistance of direct care workers allows
13 older individuals and individuals with disabilities to
14 live with dignity and safety, and to exercise their
15 right to live independently in their own homes and
16 communities, in keeping with what is most appro-
17 priate for their needs and preferences. Older individ-
18 uals and individuals with disabilities may also par-
19 ticipate in the direct care workforce, further sup-
20 porting their ability to live independently.

21 (3) According to PHI, direct care workers pro-
22 vide most of the paid, hands-on care for older indi-
23 viduals and individuals with disabilities.

24 (4) According to PHI, 4,500,000 direct care
25 workers provide care across home and community-

1 based settings, nursing facilities, assisted living fa-
2 cilities, group homes, intermediate care facilities,
3 and hospitals to care for the growing population of
4 older individuals and individuals with disabilities.

5 (5) PHI projects that by 2024, 5,200,000 di-
6 rect care workers will be needed across all care set-
7 tings to care for the growing population of older in-
8 dividuals and individuals with disabilities.

9 (6) Many direct care workers lack access to a
10 career pathway or advanced training opportunities.
11 This limits their ability to build competency and ex-
12 pertise in their field that, when gained, may lead to
13 an increase in their earning capacity. According to
14 PHI, more than half of home care workers have
15 completed no formal education beyond high school,
16 making high-quality, transferable training essential
17 to success on the job.

18 (7) As of 2015, the median wage for direct care
19 workers is approximately \$11 an hour; wages and
20 earnings for home care workers are even lower in
21 rural areas. Because of low wages, variable work
22 hours, and the inability to access workplace-based
23 benefits, 19 percent of home care workers live below
24 the Federal poverty level as compared to 9 percent
25 of the general United States workforce. Nearly half

1 of direct care workers rely on some form of public
2 assistance to support themselves and their families.

3 (8) According to PHI, approximately 9 in 10
4 direct care workers are women, more than half are
5 women of color, and one quarter of direct care work-
6 ers are immigrants.

7 (9) The direct care workforce is plagued with
8 high turnover, low job satisfaction, and workforce
9 shortages. These conditions can contribute to re-
10 duced quality of care and threaten the availability of
11 supports for older individuals and individuals with
12 disabilities.

13 (10) Because of the nature of the work, direct
14 care workers suffer from disproportionately high
15 rates of injury. In 2016, the injury rate for nursing
16 assistants was 337 per 10,000 as compared to 100
17 per 10,000 for other occupations.

18 (11) Training has been shown to reduce worker
19 turnover, reduce rates of injury, and lead to in-
20 creased job satisfaction.

21 (12) The Institute of Medicine found that to
22 ensure that the United States is prepared to meet
23 the health care needs of older individuals during the
24 21st century, it is essential that the capacity of the
25 direct care workforce be enhanced in both the num-

1 ber of workers available and their ability to meet
2 their own health care and quality of life needs.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) APPRENTICESHIP PROGRAM.—The term
6 “apprenticeship program” means an apprenticeship
7 program registered under the Act of August 16,
8 1937 (commonly known as the “National Appren-
9 ticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C.
10 50 et seq.).

11 (2) DIRECT CARE WORKER.—The term “direct
12 care worker” has the meaning given the term in sec-
13 tion 799B of the Public Health Service Act (42
14 U.S.C. 295p).

15 (3) ELIGIBLE ENTITY.—The term “eligible enti-
16 ty” means—

17 (A) a State;

18 (B) a nonprofit organization, a labor orga-
19 nization, or an entity with shared labor-man-
20 agement oversight—

21 (i) with an established record of re-
22 cruiting or providing training to direct care
23 workers; or

24 (ii) that establishes a training pro-
25 gram in consultation with an organization

1 with an established record of providing
2 training to direct care workers;

3 (C) a local board;

4 (D) a nonprofit entity carrying out an ap-
5 prenticeship program;

6 (E) an Indian tribe or tribal organization;

7 or

8 (F) a consortium of entities listed in sub-
9 paragraph (A), (B), (C), (D), or (E) that may
10 also include an institution of higher education.

11 (4) EMPLOY; EMPLOYER.—The terms “employ”
12 and “employer” have the meanings given the terms
13 in section 3 of the Fair Labor Standards Act (29
14 U.S.C. 203 et seq.).

15 (5) INDIAN TRIBE; TRIBAL ORGANIZATION.—
16 The terms “Indian tribe” and “tribal organization”
17 have the meanings given such terms in section 4 of
18 the Indian Self-Determination and Education Assist-
19 ance Act (25 U.S.C. 5304).

20 (6) INSTITUTION OF HIGHER EDUCATION.—The
21 term “institution of higher education” has the
22 meaning given the term in section 101 of the Higher
23 Education Act of 1965 (20 U.S.C. 1001).

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of Labor, except as otherwise specified
3 in this Act.

4 (8) STATE.—The term “State” has the mean-
5 ing given the term in section 3 of the Carl D. Per-
6 kins Career and Technical Education Act of 2006
7 (20 U.S.C. 2302).

8 (9) WORKFORCE INNOVATION AND OPPOR-
9 TUNITY ACT TERMS.—The terms “career pathway”,
10 “career planning”, “in-demand industry sector or
11 occupation”, “individual with a barrier to employ-
12 ment”, “individual with a disability”, “local board”,
13 “older individual”, “one-stop center”, “on-the-job
14 training”, “recognized postsecondary credential”,
15 “region”, “State board”, and “supportive services”
16 have the meanings given such terms in section 3 of
17 the Workforce Innovation and Opportunity Act (29
18 U.S.C. 3102).

19 (10) WORK-BASED LEARNING.—The term
20 “work-based learning” has the meaning given the
21 term in section 3 of the Carl D. Perkins Career and
22 Technical Education Act of 2006 (20 U.S.C. 2302).

23 **SEC. 4. AUTHORITY TO AWARD GRANTS; DURATION.**

24 (a) AUTHORITY TO AWARD GRANTS.—Not later than
25 12 months after the date of enactment of this Act, the

1 Secretary, in consultation with the Secretary of Health
2 and Human Services, shall award grants—

3 (1) to not fewer than 15 eligible entities to de-
4 velop and carry out projects for purposes of recruit-
5 ing, retaining, or providing advancement opportuni-
6 ties to direct care workers; and

7 (2) 5 of which shall be awarded for projects
8 that focus on providing such advancement opportu-
9 nities.

10 (b) TREATMENT OF CONTINUATION ACTIVITIES.—

11 An eligible entity that carries out activities for purposes
12 of recruiting, retaining, or providing advancement oppor-
13 tunities to direct care workers prior to receipt of a grant
14 under this Act may use such grant to continue carrying
15 out such activities, and shall be treated as an eligible enti-
16 ty carrying out a project described in subsection (a)(1).

17 (c) DURATION.—

18 (1) GRANT PERIOD.—A grant under this Act
19 shall be for not less than 5 years.

20 (2) LENGTH OF PROJECT.—A project assisted
21 with a grant awarded under this Act shall be carried
22 out for not less than 3 years.

23 **SEC. 5. PROJECT PLANS; CONSULTATION.**

24 (a) PROJECT PLANS.—

1 (1) IN GENERAL.—To receive a grant under
2 this Act, an eligible entity shall submit to the Sec-
3 retary a project plan for each project to be developed
4 and carried out (or for activities to be continued)
5 with the grant at such time and in such manner as
6 the Secretary may determine, and which shall con-
7 tain the information described in paragraph (2).

8 (2) CONTENTS.—A project plan submitted by
9 an eligible entity under paragraph (1) shall include
10 a description of each of the following:

11 (A) Current or projected job openings for,
12 or relevant labor market information related to,
13 direct care workers in the State or region to be
14 served by the project, and the geographic scope
15 of the workforce to be served by the project.

16 (B) Specific efforts and strategies that the
17 project will undertake to reduce barriers to re-
18 cruitment, retention, or advancement of direct
19 care workers, including an assurance that such
20 efforts will include—

21 (i) an assessment of the wages or
22 other compensation or benefits necessary
23 to recruit and retain direct care workers;
24 and

1 (ii) a description of the project’s pro-
2 jected wages and other compensation or
3 benefits for direct care workers at the
4 State or local level, including a comparison
5 of such projected wages to regional and
6 national wages.

7 (C) In the case of a project offering an
8 education and training program, a description
9 of such program (including any curricula, mod-
10 els, and standards used under the program, and
11 any associated recognized postsecondary creden-
12 tials for which the program provides prepara-
13 tion, as applicable), which shall include an as-
14 surance that such program will provide—

15 (i) an apprenticeship program, work-
16 based learning, or on-the-job training op-
17 portunities;

18 (ii) supervision or mentoring; and

19 (iii) a progressively increasing, clearly
20 defined schedule of wages to be paid to the
21 direct care worker that—

22 (I) is consistent with skill gains
23 or attainment of a recognized postsec-
24 ondary credential; and

1 (II) ensures the entry wage is not
2 less than the greater of—

3 (aa) the minimum wage re-
4 quired under section 6(a) of the
5 Fair Labor Standards Act of
6 1938 (29 U.S.C. 206(a)); or

7 (bb) the applicable wage re-
8 quired by other applicable Fed-
9 eral or State law, or a collective
10 bargaining agreement.

11 (D) If applicable, any other innovative
12 models or processes the eligible entity will im-
13 plement to support the retention of direct care
14 workers.

15 (E) The supportive services and benefits to
16 be provided to direct care workers to support
17 the retention of employment of direct care
18 workers.

19 (F) How the eligible entity will make use
20 of career planning to support the identification
21 of advancement opportunities and career path-
22 ways for direct care workers in the State or re-
23 gion to be served by the project.

1 (G) How the eligible entity will collect and
2 submit to the Secretary workforce data and
3 outcomes of the project.

4 (H) How the project will—

5 (i) provide adequate and safe equip-
6 ment, and facilities for training and super-
7 vision, including a safe work environment
8 free from discrimination;

9 (ii) provide safety training for direct
10 care workers as part of the education and
11 training program described in subpara-
12 graph (C), as applicable; and

13 (iii) provide adequate training for
14 mentors and qualified instructors to ensure
15 compliance with clause (i) and, as applica-
16 ble, clause (ii).

17 (I) How the eligible entity will consult on
18 the implementation of the project, or coordinate
19 the project with, each of the following entities,
20 to the extent that each such entity is not a part
21 of the eligible entity:

22 (i) The State agency responsible for
23 administering the State plan under title
24 XIX of the Social Security Act (42 U.S.C.
25 1396 et seq.) (or waiver of the plan), or

1 the State agency with primary responsi-
2 bility for providing services and supports
3 for individuals with intellectual disabilities
4 and individuals with developmental disabili-
5 ties, for the State to be served by the
6 project.

7 (ii) The local board and State board
8 for the State or for each region to be
9 served by the project.

10 (iii) A nonprofit organization with
11 demonstrated experience with respect to di-
12 rect care workers.

13 (iv) In the case of a project that car-
14 ries out an education and training pro-
15 gram, a nonprofit organization with dem-
16 onstrated experience in the development or
17 delivery of curricula or coursework.

18 (v) A nonprofit organization that fos-
19 ters the professional development and col-
20 lective engagement of direct care workers,
21 including labor organizations.

22 (vi) A nonprofit organization with ex-
23 pertise in identifying and addressing the
24 care needs of older individuals and individ-
25 uals with disabilities and their caregivers

1 (including area agencies on aging, as de-
2 fined in section 102 of the Older Ameri-
3 cans Act of 1965 (42 U.S.C. 3002), and
4 centers for independent living, as described
5 in part C of title VII of the Rehabilitation
6 Act of 1973 (29 U.S.C. 796f et seq.)).

7 (vii) A nonprofit State provider asso-
8 ciation that represents providers who em-
9 ploy direct care workers, where such asso-
10 ciations exist.

11 (viii) An entity that employs direct
12 care workers.

13 (J) An assurance that any benefit or serv-
14 ice provided under the project will be provided
15 at no cost to a direct care worker or individuals
16 assisted by such workers.

17 (K) How the eligible entity will consult
18 with individuals employed as direct care work-
19 ers, representatives of such workers, individuals
20 assisted by such workers, and the families of
21 such individuals throughout the project.

22 (L) Outreach efforts to individuals for par-
23 ticipation in such project, including targeted
24 outreach efforts to—

1 (i) individuals who are recipients of
2 assistance under a State program funded
3 under part A of title IV of the Social Secu-
4 rity Act (42 U.S.C. 601 et seq.) or individ-
5 uals who are eligible for such assistance;
6 and

7 (ii) individuals with barriers to em-
8 ployment.

9 (3) CONSIDERATIONS.—In selecting eligible en-
10 tities to receive a grant under this Act, the Secretary
11 shall—

12 (A) ensure—

13 (i) equitable geographic and demo-
14 graphic diversity, including rural and
15 urban areas; and

16 (ii) that selected eligible entities will
17 serve areas where direct care, or a related
18 occupation, is an in-demand industry sec-
19 tor or occupation; and

20 (B) give priority to eligible entities pro-
21 posing to predominantly serve the individuals
22 described in clauses (i) and (ii) of paragraph
23 (2)(L).

1 (b) CONSULTATION.—The Secretary shall encourage
2 each eligible entity receiving a grant under this Act, in
3 developing and carrying out a project, to consult with—

4 (1) institutions of higher education;

5 (2) the State Apprenticeship Agency recognized
6 under the Act of August 16, 1937 (commonly known
7 as the “National Apprenticeship Act”; 50 Stat. 664,
8 chapter 663; 29 U.S.C. 50 et seq.), for the State or
9 region to be served by the eligible entity or, if no
10 such agency has been recognized in the State or re-
11 gion, the Office of Apprenticeship of the Department
12 of Labor; and

13 (3) one-stop centers.

14 **SEC. 6. USES OF FUNDS; SUPPLEMENT, NOT SUPPLANT.**

15 (a) USES OF FUNDS.—

16 (1) IN GENERAL.—Each eligible entity receiving
17 a grant under this Act shall use such funds to carry
18 out at least 1 project or to continue activities com-
19 menced prior to receipt of such grant that—

20 (A) develop and implement a strategy for
21 the recruitment, retention, or advancement of
22 direct care workers, which includes the activi-
23 ties described in section 5(a)(2); and

1 (B) provide compensation to each eligible
2 direct care worker for any training received
3 under the project or activities.

4 (2) ADMINISTRATIVE COSTS.—Each eligible en-
5 tity receiving a grant under this Act shall not use
6 more than 5 percent of the funds of such grant for
7 costs associated with the administration of activities
8 under this Act.

9 (3) DIRECT SUPPORT.—Each eligible entity re-
10 ceiving a grant under this Act shall use not less than
11 5 percent of the funds of such grant to provide di-
12 rect financial assistance, such as supportive services,
13 to direct care workers to support the financial needs
14 of such workers to enter, remain enrolled in, and
15 complete the project (or activities) assisted with such
16 grant.

17 (b) SUPPLEMENT, NOT SUPPLANT.—An eligible enti-
18 ty receiving a grant under this Act shall use such grant
19 only to supplement, and not supplant, the amount of funds
20 that, in the absence of such grant, would be available to
21 address the recruitment, retention, or advancement of di-
22 rect care workers in the State or region served by the eligi-
23 ble entity.

24 **SEC. 7. EVALUATIONS AND REPORTS.**

25 (a) REPORTS.—

1 (1) ELIGIBLE ENTITIES.—

2 (A) IN GENERAL.—Each eligible entity re-
3 ceiving a grant under this Act shall submit to
4 the Secretary and the Secretary of Health and
5 Human Services, with respect to each project
6 assisted with such grant—

7 (i) for each year of the grant period,
8 an annual report on the progress and out-
9 comes of the project; and

10 (ii) not later 6 months after the com-
11 pletion of such project, a final report on
12 the progress and outcomes of the project.

13 (B) DISAGGREGATION.—Each report sub-
14 mitted under paragraph (A) shall—

15 (i) include the information described
16 in subparagraph (C); and

17 (ii) disaggregate such information in
18 the manner described in subparagraph
19 (D).

20 (C) CONTENTS.—Each report submitted
21 under subparagraph (A) shall include each of
22 the following:

23 (i) The number of individuals served
24 by the project, including—

1 (I) the number of individuals re-
2 cruited to be employed as a direct
3 care worker; and

4 (II) the number of individuals
5 who attained employment as a direct
6 care worker.

7 (ii) The number of individuals or fam-
8 ilies assisted by direct care workers.

9 (iii) The number of direct care work-
10 ers who participated in and completed—

11 (I) work-based learning;

12 (II) on-the-job training;

13 (III) an apprenticeship program;

14 or

15 (IV) a professional development
16 or mentoring program.

17 (iv) Other services, benefits, or sup-
18 ports (other than the services, benefits, or
19 supports described in clause (iii)) provided
20 to assist in the recruitment, retention, or
21 advancement of direct care workers, the
22 number of individuals who accessed such
23 services, benefits, or supports, and the im-
24 pact of such services, benefits, or supports.

1 (v) How the project assessed satisfac-
2 tion with respect to—

3 (I) direct care workers assisted
4 by the project;

5 (II) individuals receiving services
6 delivered by such workers, including
7 any impact on the health or health
8 outcomes of such individuals; and

9 (III) employers of such workers,
10 as determined in accordance with sec-
11 tion 116(b)(2)(A)(i)(VI) of the Work-
12 force Innovation and Opportunity Act
13 (29 U.S.C. 3141(b)(2)(A)(i)(VI)).

14 (vi) The performance of the eligible
15 entity with respect to the indicators of per-
16 formance on unsubsidized employment, me-
17 dian earnings, credential attainment, meas-
18 urable skill gains, and employer satisfac-
19 tion, as described under section
20 116(b)(2)(A)(i) of the Workforce Innova-
21 tion and Opportunity Act (29 U.S.C.
22 3141(b)(2)(A)(i)).

23 (vii) Any other information with re-
24 spect to outcomes of the project.

1 (D) DISAGGREGATION.—The information
2 described under subparagraph (C) shall be
3 disaggregated by race, ethnicity, sex, and age in
4 accordance with section 116(d)(2)(B) of the
5 Workforce Innovation and Opportunity Act (29
6 U.S.C. 3141(d)(2)), by each population listed in
7 section 3(24) of the Workforce Innovation and
8 Opportunity Act (29 U.S.C. 3102(24)), and by
9 the individuals described in clauses (i) and (ii)
10 of section 5(a)(2)(L).

11 (2) SECRETARIES.—

12 (A) ANNUAL PERFORMANCE REVIEW.—

13 The Secretary, in consultation with the Sec-
14 retary of Health and Human Services, shall an-
15 nually conduct a performance review of each
16 project carried out by an eligible entity receiv-
17 ing a grant under this Act, including—

18 (i) the performance of the project with
19 respect to the indicators of performance
20 described in paragraph (1)(C)(vi), and
21 disaggregated in the manner described in
22 paragraph (1)(D); and

23 (ii) the efficacy of the project plan
24 submitted under section 5(a)—

1 (I) for recruiting, retaining, or
2 providing advancement opportunities
3 for direct care workers; and

4 (II) on the methods used to re-
5 cruit, retain, or provide advancement
6 opportunities to direct care workers.

7 (B) REPORT TO CONGRESS.—Not later
8 than 1 year after the completion of each project
9 assisted with a grant under this Act, the Sec-
10 retary, in consultation with the Secretary of
11 Health and Human Services, shall prepare and
12 submit to Congress, and make publicly avail-
13 able, a report containing—

14 (i) the progress and outcomes of the
15 project as identified in the final report sub-
16 mitted by the eligible entity under para-
17 graph (1)(A)(ii);

18 (ii) an analysis of the workforce sup-
19 ply, current and projected shortages, and
20 distribution of direct care workers at the
21 national, regional, and State levels; and

22 (iii) recommendations for such legisla-
23 tive or administrative action, as the Sec-
24 retary determines appropriate.

1 (3) GAO REPORT.—Not later than 1 year after
2 the completion of each project assisted with a grant
3 under this Act, the Comptroller General of the
4 United States shall conduct a study and submit to
5 Congress a report including—

6 (A) an assessment of how the project as-
7 sisted in the recruitment, retention, or advance-
8 ment of direct care workers; and

9 (B) recommendations for such legislative
10 or administrative actions, as the Comptroller
11 General determines appropriate.

12 (b) TECHNICAL ASSISTANCE.—Not later than 15
13 months after the date of enactment of this Act, the Sec-
14 retary shall provide technical assistance to eligible entities
15 receiving a grant under this Act, for purposes of compli-
16 ance with subsection (a)(1) of this section, on—

17 (1) the disaggregation requirements of section
18 116(d)(2)(B) of the Workforce Innovation and Op-
19 portunity Act (29 U.S.C. 3141(d)(2)); and

20 (2) the data collection requirements of section
21 116(b)(2)(A)(i) of such Act (29 U.S.C.
22 3141(b)(2)(A)(i)).

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act for each of fiscal
4 years 2021 through 2025.

○