

118TH CONGRESS  
1ST SESSION

# S. 1302

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 26, 2023

Mr. MENENDEZ (for himself, Mr. BOOZMAN, Mr. SCHUMER, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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 2023”.

6 **SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSI-**  
7 **TIONS.**

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 “and  
2 (10)” and inserting “(10), and (11)”;

3 (2) in paragraph (4)(H)(i), by striking “and  
4 (10)” and inserting “(10), and (11)”;

5 (3) in paragraph (7)(E), by inserting “para-  
6 graph (11),” after “paragraph (10),”; and

7 (4) by adding at the end the following new  
8 paragraph:

9 “(11) DISTRIBUTION OF ADDITIONAL RESI-  
10 DENCY POSITIONS.—

11 “(A) ADDITIONAL RESIDENCY POSI-  
12 TIONS.—

13 “(i) IN GENERAL.—For each of fiscal  
14 years 2025 through 2031 (and succeeding  
15 fiscal years if the Secretary determines  
16 that there are additional residency posi-  
17 tions available to distribute under clause  
18 (iii)(II)), the Secretary shall increase the  
19 otherwise applicable resident limit for each  
20 qualifying hospital (as defined in subpara-  
21 graph (G)) that submits a timely applica-  
22 tion under this subparagraph by such  
23 number as the Secretary may approve for  
24 portions of cost reporting periods occurring  
25 on or after July 1 of the fiscal year of the

1 increase. Except as provided in clause (iii),  
2 the aggregate number of increases in the  
3 otherwise applicable resident limit under  
4 this subparagraph shall be equal to 2,000  
5 in each of fiscal years 2025 through 2031.

6 “(ii) PROCESS FOR DISTRIBUTING PO-  
7 SITIONS.—

8 “(I) ROUNDS OF APPLICA-  
9 TIONS.—The Secretary shall initiate 7  
10 separate rounds of applications for an  
11 increase under clause (i), 1 round  
12 with respect to each of fiscal years  
13 2025 through 2031.

14 “(II) NUMBER AVAILABLE.—In  
15 each of such rounds, the aggregate  
16 number of positions available for dis-  
17 tribution in the fiscal year as a result  
18 of an increase in the otherwise appli-  
19 cable resident limit (as described in  
20 clause (i)) shall be distributed, plus  
21 any additional positions available  
22 under clause (iii).

23 “(III) TIMING.—The Secretary  
24 shall notify hospitals of the number of  
25 positions distributed to the hospital

1 under this paragraph as result of an  
2 increase in the otherwise applicable  
3 resident limit by January 31 of the  
4 fiscal year of the increase. Such in-  
5 crease shall be effective for portions of  
6 cost reporting periods beginning on or  
7 after July 1 of that fiscal year.

8 “(iii) POSITIONS NOT DISTRIBUTED  
9 DURING THE FISCAL YEAR.—

10 “(I) IN GENERAL.—If the num-  
11 ber of resident full-time equivalent po-  
12 sitions distributed under this para-  
13 graph in a fiscal year is less than the  
14 aggregate number of positions avail-  
15 able for distribution in the fiscal year  
16 (as described in clause (i), including  
17 after application of this subclause),  
18 the difference between such number  
19 distributed and such number available  
20 for distribution shall be added to the  
21 aggregate number of positions avail-  
22 able for distribution in the following  
23 fiscal year.

24 “(II) EXCEPTION IF POSITIONS  
25 NOT DISTRIBUTED BY END OF FISCAL

1 YEAR 2031.—If the aggregate number  
2 of positions distributed under this  
3 paragraph during the 7-year period of  
4 fiscal years 2025 through 2031 is less  
5 than 14,000, the Secretary shall, in  
6 accordance with the considerations de-  
7 scribed in subparagraph (B)(i) and  
8 the priority described in subparagraph  
9 (B)(ii), conduct an application and  
10 distribution process in each subse-  
11 quent fiscal year until such time as  
12 the aggregate amount of positions dis-  
13 tributed under this paragraph is equal  
14 to 14,000.

15 “(B) DISTRIBUTION TO CERTAIN HOS-  
16 PITALS.—

17 “(i) CONSIDERATION IN DISTRIBUTION.—In determining for which hospitals  
18 the increase in the otherwise applicable  
19 resident limit is provided under subpara-  
20 graph (A), the Secretary shall take into ac-  
21 count the demonstrated likelihood of the  
22 hospital filling the positions made available  
23 under this paragraph within the first 5  
24 cost reporting periods beginning after the  
25

1 date the increase would be effective, as de-  
2 termined by the Secretary.

3 “(ii) MINIMUM DISTRIBUTION FOR  
4 CERTAIN CATEGORIES OF HOSPITALS.—

5 With respect to the aggregate number of  
6 such positions available for distribution  
7 under this paragraph, the Secretary shall  
8 distribute not less than 10 percent of such  
9 aggregate number to each of the following  
10 categories of hospitals:

11 “(I) Hospitals that are located in  
12 a rural area (as defined in subsection  
13 (d)(2)(D)) or are treated as being lo-  
14 cated in a rural area pursuant to sub-  
15 section (d)(8)(E).

16 “(II) Hospitals in which the ref-  
17 erence resident level of the hospital  
18 (as specified in subparagraph (G)(iii))  
19 is greater than the otherwise applica-  
20 ble resident limit.

21 “(III) Hospitals in States with—

22 “(aa) new medical schools  
23 that received ‘Candidate School’  
24 status from the Liaison Com-  
25 mittee on Medical Education or

1 that received ‘Pre-Accreditation’  
2 status from the American Osteo-  
3 pathic Association Commission  
4 on Osteopathic College Accredita-  
5 tion on or after January 1, 2000,  
6 and that have achieved or con-  
7 tinue to progress toward ‘Full  
8 Accreditation’ status (as such  
9 term is defined by the Liaison  
10 Committee on Medical Edu-  
11 cation) or toward ‘Accreditation’  
12 status (as such term is defined  
13 by the American Osteopathic As-  
14 sociation Commission on Osteo-  
15 pathic College Accreditation); or

16 “(bb) additional locations  
17 and branch campuses established  
18 on or after January 1, 2000, by  
19 medical schools with ‘Full Ac-  
20 creditation’ status (as such term  
21 is defined by the Liaison Com-  
22 mittee on Medical Education) or  
23 ‘Accreditation’ status (as such  
24 term is defined by the American  
25 Osteopathic Association Commis-

1                   sion on Osteopathic College Ac-  
2                   creditation).

3                   “(IV) Hospitals that serve areas  
4                   designated as health professional  
5                   shortage areas under section  
6                   332(a)(1)(A) of the Public Health  
7                   Service Act, as determined by the Sec-  
8                   retary.

9                   “(iii) SPECIAL RULE.—In distributing  
10                  positions under clause (ii), the Secretary  
11                  shall not prioritize hospitals in multiple  
12                  categories over hospitals in an individual  
13                  category or based on section 332 of the  
14                  Public Health Service Act.

15                 “(C) PROHIBITION ON DISTRIBUTION TO  
16                 HOSPITALS WITHOUT AN INCREASE AGREE-  
17                 MENT.—No increase in the otherwise applicable  
18                 resident limit of a hospital may be made under  
19                 this paragraph unless such hospital agrees to  
20                 increase the total number of full-time equivalent  
21                 residency positions under the approved medical  
22                 residency training program of such hospital by  
23                 the number of such positions made available by  
24                 such increase under this paragraph.

25                 “(D) LIMITATION.—

1           “(i) IN GENERAL.—Except as pro-  
2           vided in clause (ii), a hospital may not re-  
3           ceive more than 75 full-time equivalent ad-  
4           ditional residency positions in the aggre-  
5           gate under this paragraph and paragraphs  
6           (9) and (10) over the period of fiscal years  
7           2025 through 2031.

8           “(ii) INCREASE IN NUMBER OF ADDI-  
9           TIONAL POSITIONS A HOSPITAL MAY RE-  
10          CEIVE.—The Secretary shall increase the  
11          aggregate number of full-time equivalent  
12          additional residency positions a hospital  
13          may receive under this paragraph over  
14          such period if the Secretary estimates that  
15          the number of positions available for dis-  
16          tribution under subparagraph (A) exceeds  
17          the number of applications approved under  
18          such subparagraph over such period.

19          “(E) APPLICATION OF PER RESIDENT  
20          AMOUNTS FOR PRIMARY CARE AND NONPRI-  
21          MARY CARE.—With respect to additional resi-  
22          dency positions in a hospital attributable to the  
23          increase provided under this paragraph, the ap-  
24          proved FTE per resident amounts are deemed  
25          to be equal to the hospital per resident amounts

1 for primary care and nonprimary care com-  
2 puted under paragraph (2)(D) for that hospital.

3 “(F) PERMITTING FACILITIES TO APPLY  
4 AGGREGATION RULES.—The Secretary shall  
5 permit hospitals receiving additional residency  
6 positions attributable to the increase provided  
7 under this paragraph to, beginning in the fifth  
8 year after the effective date of such increase,  
9 apply such positions to the limitation amount  
10 under paragraph (4)(F) that may be aggre-  
11 gated pursuant to paragraph (4)(H) among  
12 members of the same affiliated group.

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

14 “(i) OTHERWISE APPLICABLE RESI-  
15 DENT LIMIT.—The term ‘otherwise appli-  
16 cable resident limit’ means, with respect to  
17 a hospital, the limit otherwise applicable  
18 under subparagraphs (F)(i) and (H) of  
19 paragraph (4) on the resident level for the  
20 hospital determined without regard to this  
21 paragraph but taking into account para-  
22 graphs (7)(A), (7)(B), (8)(A), (8)(B),  
23 (9)(A), (9)(B), (10)(A), and (10)(B).

24 “(ii) QUALIFYING HOSPITAL.—The  
25 term ‘qualifying hospital’ means a hospital

1 described in any of subclauses (I) through  
2 (IV) of subparagraph (B)(ii).

3 “(iii) REFERENCE RESIDENT  
4 LEVEL.—The term ‘reference resident  
5 level’ means, with respect to a hospital, the  
6 resident level for the most recent cost re-  
7 porting period of the hospital ending on or  
8 before the date of enactment of this para-  
9 graph, for which a cost report has been  
10 settled (or, if not, submitted (subject to  
11 audit)), as determined by the Secretary.

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

15 (b) IME.—

16 (1) IN GENERAL.—Section 1886(d)(5)(B)(v) of  
17 the Social Security Act (42 U.S.C.  
18 1395ww(d)(5)(B)(v)), in the third sentence, is  
19 amended by striking “and (h)(10)” and inserting  
20 “(h)(10), and (h)(11)”.

21 (2) CONFORMING PROVISION.—Section  
22 1886(d)(5)(B) of the Social Security Act (42 U.S.C.  
23 1395ww(d)(5)(B)) is amended by adding after  
24 clause (xiii) the following new clause:

1           “(ix) For discharges occurring on or after July  
2           1, 2025, insofar as an additional payment amount  
3           under this subparagraph is attributable to resident  
4           positions distributed to a hospital under subsection  
5           (h)(10), the indirect teaching adjustment factor shall  
6           be computed in the same manner as provided under  
7           clause (ii) with respect to such resident positions.”.

8   **SEC. 3. STUDY AND REPORT ON STRATEGIES FOR INCREAS-**  
9                           **ING DIVERSITY.**

10          (a) **STUDY.**—The Comptroller General of the United  
11 States (in this section referred to as the “Comptroller  
12 General”) shall conduct a study on strategies for increas-  
13 ing the diversity of the health professional workforce. Such  
14 study shall include an analysis of strategies for increasing  
15 the number of health professionals from rural, lower in-  
16 come, and underrepresented minority communities, includ-  
17 ing which strategies are most effective for achieving such  
18 goal.

19          (b) **REPORT.**—Not later than 2 years after the date  
20 of the enactment of this Act, the Comptroller General shall  
21 submit to Congress a report on the study conducted under  
22 subsection (a), together with recommendations for such  
23 legislation and administrative action as the Comptroller  
24 General determines appropriate.

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