

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.

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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

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## 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 DISTRIBU-  
25          TION.—The Secretary shall distribute addi-

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-

1           tion psychiatry, or pain management;  
2           and

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

10          “(ii) REQUIREMENTS.—Subject to  
11          clause (iii), a hospital that receives an in-  
12          crease in the otherwise applicable resident  
13          limit under this subparagraph shall ensure,  
14          during the 5-year period beginning after  
15          the date of such increase, that the hospital  
16          uses the positions received under clauses  
17          (i)(I) and (i)(II) for the programs for  
18          which the positions were distributed, or  
19          similar programs (as determined by the  
20          Secretary). The Secretary may determine  
21          whether a hospital has met the require-  
22          ments under this clause during such 5-year  
23          period in such manner and at such time as  
24          the Secretary determines appropriate, in-  
25          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

1 positions attributable to the increase provided  
 2 under this paragraph to, beginning in the fifth  
 3 year after the effective date of such increase,  
 4 apply such positions to the limitation amount  
 5 under paragraph (4)(F) that may be aggre-  
 6 gated pursuant to paragraph (4)(H) among  
 7 members of the same affiliated group.

8 “(H) DEFINITIONS.—In this paragraph:

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

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

21 (b) IME.—

22 (1) IN GENERAL.—Section 1886(d)(5)(B)(v) of  
 23 the Social Security Act (42 U.S.C.  
 24 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.”.

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