

103D CONGRESS
1ST SESSION

H. R. 2804

To establish a national policy respecting medical residency training programs and the health care workforce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1993

Mr. WAXMAN (for himself and Mr. CARDIN) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To establish a national policy respecting medical residency training programs and the health care workforce, 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 “Primary Care
5 Workforce Act of 1993”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions shall apply:

8 (1) The term “approved medical residency
9 training program” has the meaning given such term
10 in section 1886(h)(5)(A) of the Social Security Act.

1 (2) The term “entry position” means, with re-
2 spect to a medical residency training program, a po-
3 sition as a resident in the initial year of study in the
4 program.

5 (3) The term “primary care resident” means
6 (in accordance with criteria established by the Sec-
7 retary) a resident being trained in a distinct pro-
8 gram of primary health care (as defined in section
9 723(d)(5) of the Public Health Service Act).

10 (4) The term “resident” has the meaning given
11 such term in section 1886(h)(5)(H) of the Social Se-
12 curity Act.

13 (5) The term “Secretary” means the Secretary
14 of Health and Human Services.

15 (6) The term “State” has the meaning given
16 such term under section 799(9) of the Public Health
17 Service Act.

18 (7) The term “United States medical graduate”
19 means a resident who is a graduate of—

20 (A) a school of medicine accredited by the
21 Liaison Committee on Medical Education of the
22 American Medical Association and the Associa-
23 tion of American Medical Colleges (or approved
24 by such Committee as meeting the standards
25 necessary for such accreditation); or

1 (B) a school of osteopathy accredited by
2 the American Osteopathic Association, or ap-
3 proved by such Association as meeting the
4 standards necessary for such accreditation.

5 **SEC. 3. ESTABLISHMENT AND ENFORCEMENT OF NA-**
6 **TIONAL POLICY FOR APPROVED MEDICAL**
7 **RESIDENCY TRAINING PROGRAMS.**

8 (a) IN GENERAL.—The Secretary of Health and
9 Human Services shall establish a national policy respect-
10 ing the number of positions in each State in each approved
11 medical residency training program of the different medi-
12 cal specialties conducted in the State.

13 (b) SPECIFIC DISTRIBUTION RULES.—

14 (1) LIMIT ON TOTAL NUMBER OF POSITIONS.—
15 The national policy established under subsection (a)
16 shall provide that, with respect to residents who
17 begin an initial residency period on or after June 1,
18 1998, the total number of entry positions in ap-
19 proved medical residency training programs in the
20 United States in which residents may enroll without
21 having previously completed another medical resi-
22 dency training program may not for any fiscal year
23 exceed 110 percent of the number of United States
24 medical graduates.

1 (2) DISTRIBUTION OF PRIMARY CARE AND
2 NONPRIMARY CARE POSITIONS.—

3 (A) GENERAL RULE.—The national policy
4 established under subsection (a) shall provide
5 that, after a three-year transition period begin-
6 ning on June 1, 1995, the number of entry po-
7 sitions in all approved medical residency train-
8 ing programs in a State for residents who begin
9 an initial residency period on or after June 1,
10 1998, who are not primary care residents may
11 not exceed 50 percent of the total number of
12 entry positions in all such programs in a State
13 for all residents who are United States medical
14 graduates.

15 (B) WAIVER FOR CERTAIN STATES.—The
16 Secretary may waive the application of the gen-
17 eral rule described in subparagraph (A) to a
18 State if the Secretary finds that the application
19 of the rule to the State is not practicable.

20 (c) TIMETABLE.—

21 (1) PUBLICATION OF INTERIM FINAL REGULA-
22 TION.—The Secretary shall publish an interim final
23 regulation carrying out the national policy referred
24 to in subsection (a) not later than sixty days after
25 the National Health Professional Workforce Advi-

1 sory Board submits its recommendations to the Sec-
2 retary regarding such national policy pursuant to
3 section 3(b).

4 (2) USE OF BOARD'S RECOMMENDATIONS AS
5 DEFAULT POLICY.—If the Secretary does not meet
6 the requirements of paragraph (1), the recommenda-
7 tions of the National Health Professional Workforce
8 Advisory Board submitted to the Secretary pursuant
9 to section 3(b) shall, for purposes of this Act and
10 the amendments made by this Act, be deemed to be
11 the national policy established by the Secretary
12 under subsection (a) respecting the number of posi-
13 tions in each State in the approved medical resi-
14 dency training programs of the different medical
15 specialties conducted in the State.

16 (d) ASSURING CONFORMITY OF MEDICARE PAY-
17 MENTS FOR MEDICAL EDUCATION WITH NATIONAL POL-
18 ICY.—

19 (1) PAYMENT FOR DIRECT MEDICAL EDU-
20 CATION.—Section 1886(h)(5)(A) of the Social Secu-
21 rity Act (42 U.S.C. 1395ww(h)(5)(A)) is amended—

22 (A) by striking “means” and inserting
23 “means, with respect to a hospital,”; and

24 (B) by striking the period at the end and
25 inserting the following: “, but only if (with re-

1 spect to residents who begin an initial residency
2 period on or after June 1, 1995) entry positions
3 in each such program of the hospital are in ac-
4 cordance with the national policy established by
5 the Secretary under section 3(a) of the Primary
6 Care Workforce Act of 1993 respecting the
7 number of positions in such program.”.

8 (2) PAYMENT FOR INDIRECT MEDICAL EDU-
9 CATION.—Section 1886(d)(5)(B) of such Act (42
10 U.S.C. 1395ww(d)(5)(B)) is amended by adding at
11 the end the following new clauses:

12 “(v) In determining such adjustment, the Sec-
13 retary may not take into account the services of any
14 interns and residents in a medical residency training
15 program for a specialty or subspecialty unless, with
16 respect to interns and residents who begin an initial
17 residency period (as defined in subsection (h)(5)(F))
18 on or after June 1, 1995, entry positions in each
19 such program of the hospital are in accordance with
20 the national policy established by the Secretary
21 under section 3(a) of the Primary Care Workforce
22 Act of 1993 respecting the number of positions in
23 such program.

24 “(vi) With respect to payments during each of
25 the first 5 fiscal years for which clause (v) is in ef-

1 fect, the application of such clause may not result in
2 a reduction of the additional payment amount made
3 to the hospital under this subparagraph during the
4 fiscal year to an amount that is less than—

5 “(I) in the case of a hospital receiving an
6 additional payment amount under subpara-
7 graph (F) during the fiscal year that is com-
8 puted under clause (vii)(I) of such subpara-
9 graph, 95 percent of the additional payment
10 amount made to the hospital under this sub-
11 paragraph during the previous fiscal year; or

12 “(II) in the case of any other hospital, 90
13 percent of the additional payment amount made
14 to the hospital under this subparagraph during
15 the previous fiscal year.”.

16 **SEC. 4. NATIONAL HEALTH PROFESSIONAL WORKFORCE**
17 **ADVISORY BOARD.**

18 (a) ESTABLISHMENT; COMPOSITION.—There is here-
19 by established the National Health Professional Workforce
20 Advisory Board (hereafter in this section referred to as
21 the “Board”), to be composed of the Secretary of Health
22 and Human Services, the Secretary of Veterans’ Affairs,
23 and seven other members appointed by the President not
24 later than three months after the date of the enactment
25 of this Act, of whom—

1 (1) at least one shall be a dean of a school of
2 medicine;

3 (2) at least one shall be a health care profes-
4 sional who is not a physician;

5 (3) at least one shall be the program director
6 of an approved medical residency training program;

7 (4) at least one shall be the chief executive offi-
8 cer of a hospital that operates an approved medical
9 residency training program;

10 (5) at least one shall be the vice-president or
11 vice-chancellor for health affairs of a multi-discipli-
12 nary academic health center; and

13 (6) at least one shall represent the general
14 public.

15 (b) DUTIES.—

16 (1) IN GENERAL.—The Board shall—

17 (A) prepare initial recommendations re-
18 garding the national policy referred to in sec-
19 tion 3(a) for the number of positions in ap-
20 proved medical residency training programs of
21 the different medical specialties (subject to the
22 requirements of section 3(b) regarding the total
23 number of entry positions in such programs and
24 the distribution of such positions under such
25 programs among primary care and non-primary

1 care residents at various sites), and submit
2 such recommendations to the Secretary not
3 later than one year after the date of the enact-
4 ment of this Act;

5 (B) submit recommendations to the Sec-
6 retary regarding the supply and role of provid-
7 ers of primary care services who are not physi-
8 cians;

9 (C) with respect to funds available pursu-
10 ant to title XVIII of the Social Security Act for
11 direct graduate medical education for the clini-
12 cal training of physicians and nurses, study the
13 appropriateness of expending such funds to
14 make reimbursements under such title for the
15 clinical training in primary care of additional
16 practitioners;

17 (D) submit annual reports to Congress and
18 the Secretary on the implementation of such
19 national policy; and

20 (E) provide the Secretary with such tech-
21 nical and other assistance regarding such na-
22 tional policy as the Secretary may request.

23 (2) CRITERIA FOR RECOMMENDATIONS.—In
24 preparing its recommendations under paragraph (1),
25 the Board shall take into consideration—

1 (A) the quality of graduate medical resi-
2 dency training programs;

3 (B) the need to maintain the operation of
4 such programs that have demonstrated success
5 in recruiting, retaining, and promoting minority
6 practitioners;

7 (C) the need to assure that the distribution
8 of entry positions in such programs is not in-
9 equitable in relation to the States and hospitals
10 in urban and rural areas that are qualified to
11 offer such programs;

12 (D) the need to assure the provision of pri-
13 mary care and other health care services to
14 medically underserved communities; and

15 (E) such other criteria as the Board (in
16 consultation with the accrediting bodies referred
17 to in subsection (c)) considers appropriate.

18 (c) ROLE OF ACCREDITING BODIES AND CERTIFYING
19 BOARDS.—In preparing its recommendations regarding
20 the national policy referred to in section 3(a), the Board
21 shall—

22 (1) request each accrediting body for approved
23 medical residency training programs for a specialty
24 or subspecialty, and each certification board for such
25 specialty or subspecialty, to prepare and submit a

1 plan that provides for the achievement of such na-
2 tional policy with respect to approved medical resi-
3 dency training programs for such specialty or sub-
4 specialty;

5 (2) analyze the extent to which the Board may
6 adopt such plans as the basis for its recommenda-
7 tions; and

8 (3) maintain close consultation with such bodies
9 and boards throughout the process of preparing its
10 recommendations.

11 (d) CHAIRPERSON; ADDITIONAL DUTIES.—The
12 President shall designate a Chairperson from among the
13 members, who (subject to the approval of the Board)
14 may—

15 (1) employ and fix the compensation of an Ex-
16 ecutive Director and such other personnel (not to ex-
17 ceed twenty-five) as may be necessary to carry out
18 the Board's duties;

19 (2) seek such assistance and support as may be
20 required in the performance of the Board's duties
21 from appropriate Federal departments and agencies;

22 (3) enter into contracts or make other arrange-
23 ments, as may be necessary for the conduct of the
24 work of the Board (without regard to section 3709
25 of the Revised Statutes (41 U.S.C. 5));

1 (4) make advance, progress, and other pay-
2 ments which relate to the work of the Commission;

3 (5) provide transportation and subsistence for
4 persons serving without compensation; and

5 (6) prescribe such rules and regulations as the
6 Board deems necessary with respect to its internal
7 organization and operation.

8 (e) COMPENSATION.—Members of the Board who are
9 full-time officers or employees of the United States may
10 not receive additional pay, allowances, or benefits by rea-
11 son of their service on the Board, but may receive travel
12 expenses, including per diem in lieu of subsistence, in ac-
13 cordance with sections 5702 and 5703 of title 5, United
14 States Code.

15 (f) TERMINATION.—The Board shall terminate upon
16 the expiration of the six-year period that begins on the
17 date of the enactment of this Act. Section 14(a) of the
18 Federal Advisory Committee Act (5 U.S.C. App.; relating
19 to the termination of advisory committees) shall not apply
20 to the Board.

21 (g) CONFORMING AMENDMENT REPEALING COUNCIL
22 ON GRADUATE MEDICAL EDUCATION.—Effective on the
23 date of the enactment of this Act, section 301 of the
24 Health Professions Education Extension Amendments of
25 1992 (Public Law 102–408) is repealed.

1 **SEC. 5. REVISIONS TO MEDICARE METHODOLOGY FOR**
2 **DETERMINING PAYMENTS FOR MEDICAL**
3 **RESIDENCY.**

4 (a) PAYMENTS FOR DIRECT MEDICAL EDUCATION
5 COSTS OF NON-HOSPITAL PROVIDERS.—Title XVIII of
6 the Social Security Act (42 U.S.C. 1395 et seq.) is amend-
7 ed by inserting after section 1889 the following new
8 section:

9 “GRADUATE MEDICAL EDUCATION PAYMENTS FOR NON-
10 HOSPITAL PROVIDERS

11 “SEC. 1890. (a) IN GENERAL.—Notwithstanding any
12 other provision of this title, in the case of any entity (other
13 than a hospital) eligible to receive payments under this
14 title that operates an approved medical residency training
15 program, in addition to any other payments that may be
16 made to the entity under this title, the Secretary shall pro-
17 vide for payment to the entity for direct graduate medical
18 education costs in accordance with subsection (b).

19 “(b) DETERMINATION OF AMOUNT OF PAYMENT.—

20 “(1) IN GENERAL.—The amount of payment
21 made to an entity under this section for direct medi-
22 cal education for a fiscal year is equal to the product
23 of—

24 “(A) the aggregate approved amount (as
25 defined in paragraph (2)) for the year; and

1 “(B) the entity’s medicare patient load (as
2 defined in subsection (d)(2)) for the year.

3 “(2) AGGREGATE APPROVED AMOUNT.—In
4 paragraph (1), the term ‘aggregate approved
5 amount’ means, for a fiscal year, the product of—

6 “(A) the approved FTE resident amount
7 (determined under paragraph (3)) for the year;
8 and

9 “(B) the weighted average number of full-
10 time equivalent residents (as determined by the
11 Secretary in a manner similar to the manner
12 used to determine the number of such residents
13 under section 1886(h)(4)) in the entity’s ap-
14 proved medical residency training programs in
15 the year.

16 “(3) DETERMINATION OF APPROVED FTE RESI-
17 DENT AMOUNT.—

18 “(A) IN GENERAL.—For each approved
19 medical residency training program, the Sec-
20 retary shall determine an approved FTE resi-
21 dent amount for each fiscal year (beginning
22 with fiscal year 1995) equal to the applicable
23 percentage (as defined in subparagraph (C)) of
24 the national average salary for the year (as de-
25 fined in subparagraph (B)(ii)).

1 “(B) DETERMINATION OF NATIONAL AV-
2 ERAGE SALARY.—

3 “(i) DETERMINATION OF BASE
4 AMOUNT.—The Secretary shall determine a
5 base salary amount equal to the Sec-
6 retary’s estimate (using the most recent
7 available audited cost reports) of the na-
8 tional average salary, including fringe ben-
9 efits, for a full-time-equivalent resident in
10 an approved medical residency training
11 program during fiscal year 1990, increased
12 (in a compounded manner) by the sum of
13 the estimated percentage changes in the
14 consumer price index during the 12-month
15 periods between the midpoint of fiscal year
16 1990 and the midpoint of fiscal year 1994.

17 “(ii) NATIONAL AVERAGE SALARY DE-
18 FINED.—In this paragraph, the ‘national
19 average salary’ for a fiscal year is equal
20 to—

21 “(I) for fiscal year 1995, the
22 base amount determined under clause
23 (i) updated through the midpoint of
24 the year by projecting the estimated
25 percentage change in the consumer

1 price index during the 12-month pe-
2 riod ending at that midpoint (with ap-
3 propriate adjustments to reflect pre-
4 vious under- or over-estimations under
5 this subparagraph in the projected
6 percentage change in the consumer
7 price index); and

8 “(II) for a subsequent fiscal year,
9 the amount determined under this
10 clause for the previous fiscal year up-
11 dated through the midpoint of the
12 year by projecting the estimated per-
13 centage change in the consumer price
14 index during the 12-month period
15 ending at that midpoint (with appro-
16 priate adjustments to reflect previous
17 under- or over-estimations under this
18 subparagraph in the projected per-
19 centage change in the consumer price
20 index).

21 “(C) APPLICABLE PERCENTAGE.—In sub-
22 paragraph (A), the ‘applicable percentage’ is—

23 “(i) in the case of a primary care resi-
24 dency training program, 200 percent; or

1 “(ii) in the case of medical residency
2 training program that is not a primary
3 care residency training program, 150 per-
4 cent.

5 “(c) ALLOCATION OF PAYMENTS AMONG TRUST
6 FUNDS.—In providing for payments under this section,
7 the Secretary shall provide for an allocation of such pay-
8 ments between part A and part B (and the trust funds
9 established under the respective parts) as reasonably re-
10 flects the proportion of direct graduate medical costs of
11 entities associated with the provision of services under
12 each respective part.

13 “(d) DEFINITIONS.—In this section:

14 “(1) The terms ‘approved medical residency
15 training program’, ‘consumer price index’, ‘direct
16 graduate medical education costs’, and ‘resident’
17 have the meaning given such terms under section
18 1886(h)(5).

19 “(2) The term ‘medicare patient load’ means,
20 with respect to an entity for a year, the fraction of
21 the entity’s services during the year which are at-
22 tributable to individuals entitled to benefits under
23 this title (based on such measure of services as the
24 Secretary determines to be appropriate for purposes
25 of this section).

1 “(3) The term ‘primary care medical residency
2 training program’ means an approved medical resi-
3 dency training program consisting of a distinct pro-
4 gram of primary health care (as defined in section
5 723(d)(5) of the Public Health Service Act).”.

6 (b) PAYMENT FOR HOSPITAL COSTS OF INDIRECT
7 MEDICAL EDUCATION PROVIDED OFF-SITE.—Section
8 1886(d)(5)(B)(iv) of the Social Security Act (42 U.S.C.
9 1395ww(d)(5)(B)(iv)) is amended by inserting by striking
10 the period at the end and inserting the following: “, with-
11 out regard to the setting in which the services are fur-
12 nished (if the hospital incurs all, or substantially all, of
13 the costs of the services furnished to the hospital by such
14 interns and residents).”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to cost reporting periods (or por-
17 tions thereof) beginning on or after October 1, 1994.

18 **SEC. 6. CERTAIN PRIMARY CARE PROGRAMS UNDER PUB-**
19 **LIC HEALTH SERVICE ACT.**

20 (a) INCREASE IN FUNDING FOR SCHOLARSHIP AND
21 LOAN REPAYMENT PROGRAMS OF NATIONAL HEALTH
22 SERVICE CORPS.—Section 338H(b)(1) of the Public
23 Health Service Act (42 U.S.C. 254q(b)(1)) is amended—
24 (1) by striking “and” after “1991,”;

1 (2) by striking “through 2000” and inserting
2 “and 1993”; and

3 (3) by inserting before the period the following:
4 “,\$226,000,000 for fiscal year 1994, \$294,000,000
5 for fiscal year 1995, \$381,000,000 for fiscal year
6 1996, \$496,000,000 for fiscal year 1997,
7 \$644,000,000 for fiscal year 1998, \$837,000,000 for
8 fiscal year 1999, and \$1,089,000,000 for fiscal year
9 2000”.

10 (b) DEMONSTRATION GRANTS TO STATES FOR COM-
11 MUNITY SCHOLARSHIP PROGRAMS.—Section 338L(l)(1)
12 of the Public Health Service Act (42 U.S.C. 254t(l)(1))
13 is amended—

14 (1) by striking “and” after “1992,”; and

15 (2) by inserting before the period the following:
16 “, and \$5,000,000 for each of the fiscal years 1994
17 through 2000”.

18 (c) NATIONAL RESEARCH SERVICE AWARDS.—Sec-
19 tion 487(d)(3) of the Public Health Service Act (42 U.S.C.
20 288(d)(3)), as amended by section 1641(2) of Public Law
21 103–43, is amended—

22 (1) by striking “1 percent” the first place such
23 terms appears and inserting “2 percent”; and

24 (2) by striking “Awards which (A) are made”
25 and all that follows through “(B) are for research in

1 primary medical care;” and inserting the following
2 “Awards made for research in primary medical
3 care;”.

4 (d) HEALTH CARE POLICY AND RESEARCH.—

5 (1) FUNDING.—Section 926 of the Public
6 Health Service Act (42 U.S.C. 299c-5), as amended
7 by section 10 of Public Law 102-410 (106 Stat.
8 2101), is amended by adding at the end the follow-
9 ing subsection:

10 “(f) ALLOCATION REGARDING PRIMARY CARE.—Of
11 the amounts made available for a fiscal year for carrying
12 out this title, the Secretary shall obligate not less than
13 15 percent for carrying out section 902 with respect to
14 primary care.”.

15 (2) RETRAINING PROGRAMS.—Section 902 of
16 the Public Health Service Act (42 U.S.C. 299a), as
17 amended by section 2 of Public Law 102-410 (106
18 Stat. 2094), is amended by adding at the end the
19 following subsection:

20 “(f) RETRAINING OF SPECIALISTS.—With respect to
21 physicians who are in a specialty, the Administrator shall,
22 in carrying out subsection (a), conduct or support pro-
23 grams for training such physicians in primary care.”.

24 (e) COMMISSION ON OBLIGATED SERVICE.—

1 (1) IN GENERAL.—Not later than one hundred
2 and eighty days after the date of the enactment of
3 this Act, there shall be established in accordance
4 with this subsection an advisory commission to carry
5 out the duties described in paragraph (2).

6 (2) DUTIES.—The duties referred to in para-
7 graph (1) are making recommendations to the Presi-
8 dent and the Secretary on Health and Human Serv-
9 ices on whether and to what extent students attend-
10 ing health professions schools pursuant to direct or
11 indirect federal financial assistance (for the students
12 or for the schools, or both) should, as a condition of
13 such attendance, be contractually required to com-
14 plete a period of providing health services to medi-
15 cally undeserved individuals. Recommendations
16 under the preceding sentence shall include rec-
17 ommendations with respect to establishing such a re-
18 quirement for each student who attends a health
19 professions school pursuant to such assistance.

20 (3) MEMBERSHIP.—The advisory commission
21 established under paragraph (1) shall be comprised
22 of five individuals appointed by the President.

23 (4) ADMINISTRATIVE PROVISIONS.—The advi-
24 sory commission established under paragraph (1)
25 shall be established within the Department of Health

1 and Human Services. The Secretary shall provide to
2 the commission such staff, quarters, information,
3 and other assistance as may be necessary for the
4 commission to carry out paragraph (2).

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