

117TH CONGRESS
1ST SESSION

H. R. 5149

To amend the Public Health Service Act with respect to the designation of general surgery shortage areas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 3, 2021

Mr. BERA (for himself, Mr. BUCSHON, Mr. PETERS, and Mr. MULLIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act with respect to the designation of general surgery shortage areas, 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 “Ensuring Access to
5 General Surgery Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) According to the Bureau of Health Work-
2 force, the United States faces a shortage of physi-
3 cians.

4 (2) A 2020 report released by the Association
5 of American Medical Colleges projects shortages in
6 all surgical specialties of between 17,100 and 28,700
7 surgeons by 2033.

8 (3) A 2020 report prepared by the Health Re-
9 sources and Services Administration for the Com-
10 mittee on Appropriations of the Senate found a
11 “maldistribution of general surgeons” nationwide,
12 with only enough general surgeons to meet 69 per-
13 cent of the demand for care in rural areas and 75
14 percent of the demand for care in suburban areas.

15 (4) The 2020 report prepared by the Health
16 Resources and Services Administration also found
17 that although the supply of general surgeons is pro-
18 jected to increase slightly by 2030, rural and subur-
19 ban areas will still not have enough general surgeons
20 to meet the demand for care in those areas.

21 (5) In order to accurately prepare for future
22 physician workforce demands, comprehensive, impar-
23 tial research and high-quality data are needed to in-
24 form dynamic projections of physician workforce
25 needs.

1 (6) A variety of factors, including health out-
 2 comes, utilization trends, growing and aging popu-
 3 lations, and delivery system changes, influence work-
 4 force needs and should be considered as part of
 5 flexible projections of workforce needs.

6 (7) Given the particularly acute needs in many
 7 rural and other surgical workforce shortage areas,
 8 additional efforts to assess the adequacy of the cur-
 9 rent general surgeon workforce are necessary.

10 **SEC. 3. STUDY ON DESIGNATION OF GENERAL SURGICAL**
 11 **HEALTH PROFESSIONAL SHORTAGE AREAS.**

12 Part D of title III of the Public Health Service Act
 13 (42 U.S.C. 254b et seq.) is amended by adding at the end
 14 the following:

15 **“Subpart XIII—General Surgery Shortage Areas**

16 **“SEC. 340J. DESIGNATION OF GENERAL SURGERY SHORT-**
 17 **AGE AREAS.**

18 “(a) GENERAL SURGERY SHORTAGE AREA DE-
 19 FINED.—For purposes of this section, the term ‘general
 20 surgery shortage area’ means, with respect to an urban,
 21 suburban, or rural area in the United States, an area that
 22 has a population that is underserved by general surgeons.

23 “(b) STUDY AND REPORT.—

24 “(1) STUDY.—The Secretary, acting through
 25 the Administrator of the Health Resources and Serv-

ices Administration, shall conduct a study on the following matters relating to access by underserved populations to general surgeons:

“(A) Whether current shortage designations, such as the designation of health professional shortage areas under section 332, results in accurate assessments of the adequacy of local general surgeons to address the needs of underserved populations in urban, suburban, or rural areas.

“(B) Whether another measure of access to general surgeons by underserved populations, such as one based on general surgeons practicing within hospital service areas, would provide more accurate assessments of shortages in the availability of local general surgeons to meet the needs of those populations.

“(C) Potential methodologies for the designation of general surgery shortage areas, including the methodology described in paragraph (2).

“(2) METHODOLOGY FOR THE DESIGNATION OF AREAS.—Among the methodologies considered under paragraph (1)(C) for the designation of general surgery shortage areas, the Secretary shall analyze the

effectiveness and accuracy of the following methodology:

“(A) DEVELOPMENT OF SURGERY SERVICE AREAS.—Development of surgery service areas through the identification of hospitals with surgery services and the identification of populations by zip code areas using Medicare patient origin data.

“(B) IDENTIFICATION OF SURGEONS.—Identification of all actively practicing general surgeons.

“(C) SURGEON TO POPULATION RATIOS.—Development of general surgeon-to-population ratios for each surgery service area.

“(D) THRESHOLDS.—

“(i) IN GENERAL.—Determination of threshold general surgeon-to-population ratios for the number of general surgeons necessary to treat a population for each of the following levels:

“(I) Optimal supply of general surgeons.

“(II) Adequate supply of general surgeons.

1 “(III) Shortage of general sur-
2 geons.

3 “(IV) Critical shortage of general
4 surgeons.

5 “(ii) CONSIDERATIONS.—In deter-
6 mining the thresholds under clause (i), the
7 Secretary shall consider quantifiable and
8 objective factors such as wait times, health
9 outcomes, ground transportation time to
10 the nearest health care center with a gen-
11 eral surgeon, critical access hospitals with
12 surgical capabilities but lacking a general
13 surgeon, and patient acuity.

14 “(3) REPORT.—Not later than 1 year after the
15 date of the enactment of this subpart, the Secretary
16 shall submit to Congress a report on the study con-
17 ducted under this subsection.

18 “(4) CONSULTATION.—In conducting the study
19 under paragraph (1), the Secretary shall consult
20 with relevant stakeholders, including medical soci-
21 eties, organizations representing surgical facilities,
22 organizations with expertise in general surgery, and
23 organizations representing patients.

1 “(5) PUBLICATION OF DATA.—The Secretary
2 shall periodically collect and publish in the Federal
3 Register—

4 “(A) data comparing the availability and
5 need of general surgery services in urban, sub-
6 urban, or rural areas in the United States; and

7 “(B) if the Secretary designates one or
8 more general surgery shortage areas under sub-
9 section (c), a list of the areas so designated.

10 “(c) DESIGNATION OF GENERAL SURGERY SHORT-
11 AGE AREAS.—

12 “(1) METHODOLOGY DEVELOPED THROUGH
13 REGULATION.—Based on the findings of the report
14 under subsection (b)(3), the Secretary may establish,
15 through notice and comment rulemaking, a method-
16 ology for the designation of general surgery shortage
17 areas under this section.

18 “(2) REQUIREMENTS.—If the Secretary elects
19 to develop methodology under paragraph (1), the fol-
20 lowing shall apply:

21 “(A) Using the methodology established
22 under paragraph (1) and taking into consider-
23 ation the data referred to in subsection (b)(5),
24 the Secretary shall—

1 “(i) designate general surgery short-
2 age areas in the United States;

3 “(ii) publish a descriptive list of the
4 areas; and

5 “(iii) review annually, and, as nec-
6 essary, revise such designations.

7 “(B) The Secretary shall follow similar
8 procedures with respect to notice to appropriate
9 parties, opportunities for comment, dissemina-
10 tion of information, and reports to Congress in
11 designating general surgery shortage areas
12 under this section as those that apply to the
13 designation of health professional shortage
14 areas under section 332.

15 “(C) In designating general surgery short-
16 age areas under this subsection, the Secretary
17 shall consult with relevant stakeholders, includ-
18 ing medical societies, organizations representing
19 surgical facilities, organizations with expertise
20 in general surgery, and organizations rep-
21 resenting patients.”.

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