S T A T E O F N E W Y O R K

S. 388 A. 1035

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

IN SENATE -- Introduced by Sens. BRESLIN, ADAMS, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, KRUGER, MONTGOMERY, ONORATO, PARKER, SAMPSON, SAVINO, SCHNEIDERMAN, SMITH, STACHOWSKI, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

IN ASSEMBLY -- Introduced by M. of A. McENENY, MILLMAN, BARRA -- Multi-Sponsored by -- M. of A. ALFANO, KOON -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to regents professional education scholarships, health care professional opportunity scholarships and loan forgiveness for nurses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 3 of section 605 of the education law, as amended by chapter 31 of the laws of 1985, is amended to read as follows:

3. Regents professional education in medicine [or], dentistry, OR NURSING scholarships. Regents professional education in medicine [or], dentistry, OR NURSING scholarships shall be awarded annually, on a competitive basis, to students beginning professional study in medicine [or], dentistry, OR NURSING. One hundred such scholarships shall be awarded annually TO STUDENTS BEGINNING PROFESSIONAL STUDY IN MEDICINE AND TWO THOUSAND SUCH SCHOLARSHIPS TO STUDENTS BEGINNING PROFESSIONAL STUDY IN NURSING, and shall be classified and allocated in accordance with regents rules. The provisions of this subdivision shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year. FURTHER, THE PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO A

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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STUDENT STUDYING TO BE A REGISTERED PROFESSIONAL NURSE AS DEFINED IN SECTION SIXTY-NINE HUNDRED THREE OF THIS CHAPTER.

S 2. Subdivision 9 of section 605 of the education law, as amended by chapter 523 of the laws of 1992, is amended to read as follows:

9. Regents physician AND NURSING loan forgiveness program. Regents physician AND NURSING loan forgiveness awards shall be awarded annually to physicians AND NURSES who agree to practice medicine OR NURSING in an area of New York state designated by the regents as having a shortage of physicians OR NURSES. Such awards shall be classified and allocated in accordance with regents rules.

a. Eligibility. (1) The applicant must be a resident of New York state and licensed to practice medicine OR NURSING AND SHALL BE A REGISTERED PROFESSIONAL NURSE AS DEFINED IN SECTION SIXTY-NINE HUNDRED THREE OF THIS CHAPTER.

(2) [The applicant must have completed a professional residency program within the five years immediately preceding the period for which the first award would be granted, or be within two years of completion of an accredited residency program in a primary care specialty designated in short supply by the board of regents.

(3)] The applicant must agree to practice medicine OR NURSING in an area in New York state designated as having a shortage of physicians OR NURSES. The regents, after consultation with the commissioners of health, correctional services, mental health and mental retardation and developmental disabilities, shall designate those regions and facilities of New York state which have a shortage of physicians OR NURSES for the purposes of this section and establish relative rankings thereof.

b. Selection. The commissioner, in consultation with the commissioner of health, shall establish criteria for the selection of participants in the program. An applicant must satisfy at least one of the criteria established. A priority shall be accorded to any applicant who is completing the second year of the service requirement and is reapplying for a new award. The criteria shall include but not be limited to the following:

(i) reapplication for a new award by a person who is completing the second year of a service requirement;

(ii) receipt of specific training in a primary care specialty or obstetrics, OR NURSING determined by the regents to be in short supply;

(iii) receipt of specific training or experience in serving a shortage area;

(iv) receipt of specific training or experience matching a specific medical need existing in a shortage area; and

(v) agreement pursuant to [subdivision (d)] PARAGRAPH D of this [section] SUBDIVISION to practice in an area determined by the regents to have a severe shortage of primary care physician SERVICES AND NURSING services.

c. Notification. (1) The commissioner shall then forward approved applications to the president and shall notify unsuccessful applicants;

(2) The president shall verify the approved applicants':

(i) eligibility; and

(ii) total undergraduate and medical school AND NURSING SCHOOL student expense;

(3) The president shall notify applicants of their award entitlement.

d. Service requirement. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have agreed to practice medicine OR NURSING in a specific area designated as having a shortage of physicians OR NURSES for a period of twelve months for each

annual payment to be received by the recipient. Physicians AND NURSES in training who receive an award shall not receive credit toward their required service for time spent in a training program. [In no case shall the total number of months of service required be less than twenty-four.] The president shall, in consultation with the commissioner, develop and secure from each award recipient, a written agreement to[:
(i)] practice medicine OR NURSING in the designated shortage area[;
(ii) to accept Medicare and Medicaid payments; and
(iii) to provide thirty-five hours per week of direct patient care in the designated shortage area being served, or to the designated population being served].
If a recipient fails to comply fully with such conditions, the president shall be entitled to receive from such recipient an amount to be determined by the formula:

$$A = \frac{2B\ (t-s)}{t}$$

in which "A" is the amount the president is entitled to recover; "B" is the sum of all payments made to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of service actually rendered by the recipient. Any amount which the president is entitled to recover under this paragraph shall be paid within the five-year period beginning on the date that the recipient failed to comply with this service condition. Nothing in the written agreement shall affect the terms of employment of the individual who shall negotiate, separate and apart from the program, his or her salary and other forms of employment with an agency, institution or a program in which he or she shall be employed.

Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. The commissioner shall make regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

e. Reporting. A recipient of an award shall report annually to the New York state higher education services corporation, and the department of health on forms prescribed by the president, as to the performance of the required services, commencing with the calendar year in which the recipient begins to practice medicine OR NURSING in a shortage area and continuing until the recipient shall have completed, or it is determined that he or she shall not be obligated to complete, the required services. If the recipient shall fail to file any report required hereunder within thirty days of written notice to the recipient, mailed to the address shown on the last application for an award or last report filed, whichever is later, the president of the corporation may impose a fine of up to one thousand dollars. The president shall have the discretion to waive the filing of a report, excuse a delay in filing or a failure to file a report, or waive or reduce any fine imposed for good cause shown.

f. Other awards. Award recipients shall be eligible to apply for one additional award.

S 3. Subdivision 10 of section 605 of the education law, as added by chapter 31 of the laws of 1985, is amended to read as follows:

10. Regents health care professional opportunity scholarships. Regents health care professional opportunity scholarships shall be awarded annually to students who are beginning or engaged in an approved

program in medicine [or], dentistry, OR NURSING and who are economically disadvantaged and/or members of an underrepresented minority group, provided, however, that to the extent that regents health care professional opportunity scholarships are not awarded, such scholarships shall be awarded as regents professional opportunity scholarships. These scholarships shall be classified and allocated in accordance with regents rules. THIS SUBDIVISION SHALL APPLY ONLY TO REGISTERED PROFESSIONAL NURSES AS DEFINED IN SECTION SIXTY-NINE HUNDRED THREE OF THIS CHAPTER.

a. In selecting and certifying scholarship recipients under this subdivision, priority shall be accorded to applicants in the following order:

(1) First, to any applicant who is economically disadvantaged as defined by the regents and a minority historically underrepresented in the profession as determined by the regents after consultation with the council on professional career opportunity created by section nine hundred forty-one of the executive law;

(2) Second, to any applicant who is a minority underrepresented in the profession as determined by the regents after consultation with the council on professional career opportunity created by section nine hundred forty-one of the executive law;

(3) Third, to any applicant who is a graduate of the state-sponsored opportunity program pursuant to section sixty-four hundred fifty-one or sixty-four hundred fifty-two of this chapter.

In the event that there are more applicants who have the same priority than there are remaining scholarships, the commissioner shall distribute the remaining number of such scholarships by means of a lottery or other form of random selection.

b. The commissioner shall then forward approved applications to the president and shall notify unsuccessful applicants.

c. The president shall notify applicants of their award entitlement.

d. The president shall, in consultation with the commissioner, develop and secure from each successful applicant a written agreement to practice medicine [or], dentistry, OR NURSING, as appropriate, in a designated shortage area. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have practiced medicine [or], dentistry, OR NURSING in an area designated as having a shortage of physicians [or], dentists, OR NURSES, as appropriate, for that number of months calculated by multiplying by twelve the number of annual payments received by the recipient. In no case shall the total number of months of service required be less than twenty-four. If a recipient fails to comply fully with such conditions, the president shall be entitled to receive from such recipient an amount to be determined by the formula:

$$A = \frac{2B\,(t-s)}{t}$$

in which "A" is the amount the president is entitled to recover; "B" is the sum of all payments made to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of service actually rendered by the recipient. Any amount which the president is entitled to recover under this paragraph shall be paid within the five-year period beginning on the date that the recipient failed to comply with this service condition. Nothing in the written agreement shall affect the terms of employ-

ment of the individual who shall negotiate, separate and apart from the program, his or her salary and other forms of employment with an agency, institution or a program in which he or she shall be employed.

Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. The commissioner shall make regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

e. A recipient of an award shall report annually to the New York state higher education services corporation, on forms prescribed by it, as to the performance of the required services, commencing with the calendar year in which the recipient begins to practice medicine [or], dentistry, OR NURSING in a shortage area and continuing until the recipient shall have completed, or it is determined that he or she shall not be obligated to complete, the required services. If the recipient shall fail to file any report required hereunder within thirty days of written notice to the recipient, mailed to the address shown on the last application for an award or last report filed, whichever is later, the president of the corporation may impose a fine of up to one thousand dollars. The president shall have the discretion to waive the filing of a report, excuse a delay in filing or a failure to file a report, or waive or reduce any fine imposed for good cause shown.

S 4. Section 677 of the education law, as added by chapter 31 of the laws of 1985 and subdivision 1 as amended by chapter 439 of the laws of 1988, is amended to read as follows:

S 677. Regents physician AND NURSING loan forgiveness program. 1. Number and certification. Eighty regents physician AND NURSING loan forgiveness awards shall be awarded each year. Such awards shall be allocated as provided in article thirteen of this chapter to eligible physicians AND NURSES as certified to the president by the commissioner. THIS SECTION SHALL APPLY ONLY TO REGISTERED PROFESSIONAL NURSES AS DEFINED IN SECTION SIXTY-NINE HUNDRED THREE OF THIS CHAPTER.

2. Calculation of award amounts. Each award shall consist of two consecutive annual loan forgiveness payments. Each of the annual payments shall be for an amount equal to the total of undergraduate and medical OR NURSING school student loan expense or ten thousand dollars whichever is less. The president shall be responsible for calculating the dollar amount of each award that [eligibile] ELIGIBLE candidates may receive from this program. For the purposes of this section, student loan expense shall mean the cumulative total of the annual student loans covering the cost of attendance at an undergraduate institution and/or medical OR NURSING school. Interest paid or due on student loans that an applicant has taken out for use in paying for such undergraduate and/or medical OR NURSING education shall be considered eligible for reimbursement under this program.

3. Award disbursement. a. Annual award disbursements shall be the responsibility of the president and shall occur prior to the beginning of each of the required terms of service as specified in the service contract. The board of trustees of the higher education services corporation shall adopt rules and regulations regarding criteria for determining successful completion of the service contract and any appeal process that may be required to implement this paragraph upon recommendation of the president in consultation with the commissioner.

b. The disbursement of the second annual award shall be dependent upon successful completion of the first year requirement of the service contract as defined by the president, as well as other criteria set forth in this section.

S 5. This act shall take effect on the first of July next succeeding the date on which it shall have become a law, provided, that the amendments to subdivisions 3, 9 and 10 of section 605 and section 677 of the education law made by sections one, two, three and four of this act shall not affect the termination of such subdivisions and section as provided by section 17 of chapter 31 of the laws of 1985, as amended.