

7730

2009-2010 Regular Sessions

I N A S S E M B L Y

April 22, 2009

Introduced by M. of A. MAYERSOHN -- read once and referred to the
Committee on Health

AN ACT to amend the public health law, in relation to enhanced enforcement of the primary care physician loan and scholarship programs

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

Section 1. Subdivision 4 of section 903 of the public health law, as amended by chapter 639 of the laws of 1996, is amended to read as follows:

4. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have practiced as a primary care physician in an underserved area in the state of New York or, in the case of a recipient of an award after completion of residency training, the recipient shall have practiced in an underserved area for that number of months calculated by multiplying by twelve the number of annual awards received by the recipient. If a recipient fails to comply fully with such conditions[,]:

(A) 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 services actually rendered by the recipient. Any amount which the president is entitled to recover under

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

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1 this subdivision SHALL BECOME DUE AND shall be paid [within the five-
2 year period beginning on the date] IN FULL UPON A DETERMINATION that the
3 recipient failed to comply with this condition. Any obligation to comply
4 with such provisions shall be canceled upon the death of the recipient.
5 The commissioner [of health] shall promulgate regulations to provide for
6 the waiver or suspension of any financial obligation when compliance
7 would involve extreme hardship;

8 (B) THE COMMISSIONER SHALL INITIATE PROCEEDINGS FOR THE SUSPENSION OF
9 THE RECIPIENT'S LICENSE TO PRACTICE MEDICINE IN THE STATE OF NEW YORK;

10 (C) THE COMMISSIONER SHALL FILE A REPORT WITH THE NEW YORK STATE
11 DEPARTMENT OF TAXATION AND FINANCE INDICATING THE TOTAL AMOUNT OF A
12 RECIPIENT'S UNEARNED LOAN REPAYMENT AWARD SO THAT SUCH AWARD MAY BE
13 CONSIDERED INCOME FOR THE PURPOSE OF ARTICLE TWENTY-TWO OF THE TAX LAW.

14 S 2. Section 903 of the public health law is amended by adding a new
15 subdivision 4-a to read as follows:

16 4-A. (A) A RECIPIENT OF A LOAN REPAYMENT AWARD SHALL REPORT ANNUALLY
17 TO THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION, ON FORMS
18 PRESCRIBED BY THE PRESIDENT, AS TO THE PERFORMANCE OF THE REQUIRED
19 SERVICES, COMMENCING WITH THE CALENDAR YEAR IN WHICH THE RECIPIENT
20 BEGINS TO PROVIDE PRIMARY CARE SERVICES IN AN UNDERSERVED AREA AND
21 CONTINUING UNTIL THE RECIPIENT SHALL HAVE COMPLETED, OR UNTIL IT IS
22 DETERMINED THAT HE OR SHE SHALL NOT BE OBLIGATED TO COMPLETE, THE
23 REQUIRED SERVICES. IF THE RECIPIENT SHALL FAIL TO FILE ANY REPORT
24 REQUIRED HEREUNDER WITHIN THIRTY DAYS OF WRITTEN NOTICE TO THE RECIPI-
25 ENT, MAILED TO THE ADDRESS SHOWN ON THE LAST APPLICATION FOR AN AWARD OR
26 LAST REPORT FILED, WHICHEVER IS LATER, THE PRESIDENT OF THE CORPORATION
27 MAY IMPOSE A FINE OF UP TO FIVE THOUSAND DOLLARS. THE PRESIDENT SHALL
28 HAVE THE DISCRETION TO WAIVE THE FILING OF A REPORT, EXCUSE A DELAY IN
29 FILING OR A FAILURE TO FILE A REPORT, OR WAIVE OR REDUCE ANY FINE
30 IMPOSED FOR GOOD CAUSE SHOWN.

31 (B) IN ADDITION TO THE REPORTING REQUIREMENTS SET FORTH IN PARAGRAPH
32 (A) OF THIS SUBDIVISION, A RECIPIENT OF AN AWARD SHALL SUBMIT TO THE
33 DEPARTMENT AT EACH BIENNIAL REGISTRATION PERIOD PROVIDED IN SUBDIVISION
34 EIGHT OF SECTION SIXTY-FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW, A
35 REPORT AS TO THE PERFORMANCE OF THE REQUIRED SERVICES.

36 S 3. Subdivisions 6 and 7 of section 904 of the public health law, as
37 amended by chapter 255 of the laws of 1994, are amended to read as
38 follows:

39 6. If a recipient fails to comply fully with such conditions[,]:

40 (A) the president shall be entitled to receive from such recipient an
41 amount to be determined by the formula:

$$A = 2B(t-s)$$

t

45 in which "A" is the amount the president is entitled to recover, "B" is
46 the sum of all awards made to the recipient and the interest on such
47 amount which would be payable if at the times such awards were paid they
48 were loans bearing interest at the maximum prevailing rate; "t" is the
49 total number of months in the recipient's period of obligated services;
50 and "s" is the number of months of service actually rendered by the
51 recipient. Any amount which the president is entitled to recover under
52 this [paragraph] SUBDIVISION SHALL BECOME DUE AND shall be paid [within
53 the five-year period beginning on the date] IN FULL UPON A DETERMINATION
54 that the recipient failed to comply with this service condition. Nothing
55 in the written agreement shall affect the terms of employment of the

1 individual who shall negotiate, separate and apart from the program, his
2 or her salary and other forms of employment with an agency, institution
3 or a program in which he or she shall be employed. Any obligation to
4 comply with such provisions as outlined in this section shall be
5 canceled upon the death of the recipient. The commissioner shall promul-
6 gate regulations to provide for the waiver or suspension of any finan-
7 cial obligation when compliance would involve extreme hardship;

8 (B) THE COMMISSIONER SHALL INITIATE PROCEEDINGS FOR THE SUSPENSION OF
9 THE RECIPIENT'S LICENSE TO PRACTICE MEDICINE IN THE STATE OF NEW YORK;

10 (C) THE COMMISSIONER SHALL FILE A REPORT WITH THE NEW YORK STATE
11 DEPARTMENT OF TAXATION AND FINANCE INDICATING THE TOTAL AMOUNT OF A
12 RECIPIENT'S UNEARNED LOAN REPAYMENT AWARD SO THAT SUCH AWARD MAY BE
13 CONSIDERED INCOME FOR THE PURPOSES OF ARTICLE TWENTY-TWO OF THE TAX LAW.

14 7. (A) A recipient of an award shall report annually to the New York
15 state higher education services corporation, on forms prescribed by the
16 president, as to the performance of the required services, commencing
17 with the calendar year in which the recipient begins to provide primary
18 care services in an underserved area and continuing until the recipient
19 shall have completed, or until it is determined that he or she shall not
20 be obligated to complete, the required services. If the recipient shall
21 fail to file any report required hereunder within thirty days of written
22 notice to the recipient, mailed to the address shown on the last appli-
23 cation for an award or last report filed, whichever is later, the presi-
24 dent of the corporation may impose a fine of up to [one] FIVE thousand
25 dollars. The president shall have the discretion to waive the filing of
26 a report, excuse a delay in filing or a failure to file a report, or
27 waive or reduce any fine imposed for good cause shown.

28 (B) IN ADDITION TO THE REPORTING REQUIREMENTS SET FORTH IN PARAGRAPH
29 (A) OF THIS SUBDIVISION, A RECIPIENT OF AN AWARD SHALL SUBMIT TO THE
30 DEPARTMENT AT EACH BIENNIAL REGISTRATION PERIOD PROVIDED IN SUBDIVISION
31 EIGHT OF SECTION SIXTY-FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW, A
32 REPORT AS TO THE PERFORMANCE OF THE REQUIRED SERVICES.

33 S 4. Section 904 of the public health law is amended by adding a new
34 subdivision 9 to read as follows:

35 9. THE COMMISSIONER, IN CONSULTATION WITH THE COUNCIL, SHALL PROMUL-
36 GATE REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS AND PURPOSES OF
37 THIS SECTION.

38 S 5. This act shall take effect on the one hundred twentieth day after
39 it shall have become a law, except that any rule or regulation necessary
40 for the timely implementation of this act shall be promulgated on or
41 before such date.