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

2771

2011-2012 Regular Sessions

I N S E N A T E

February 1, 2011

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to providing an educational loan forgiveness program to physicians who return to a physician shortage area of origin

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

Section 1. Section 235 of the public health law is amended by adding two new subdivisions 5 and 6 to read as follows:

5. "DESIGNATED PHYSICIAN SHORTAGE AREAS", AS REFERENCED IN SECTION SIX HUNDRED FIVE OF THE EDUCATION LAW, ARE AREAS DETERMINED BY THE BOARD OF REGENTS, IN CONSULTATION WITH THE COMMISSIONER, TO BE AREAS IN SHORT SUPPLY OF CERTAIN PHYSICIAN SPECIALTIES.

6. "SPECIALTY" OR "SPECIALTY AREA" SHALL MEAN THE BRANCH OR BRANCHES OF SPECIAL COMPETENCE WITHIN A PHYSICIAN'S MEDICAL PRACTICE.

S 2. The public health law is amended by adding a new section 236-b to read as follows:

S 236-B. PHYSICIANS RETURNING TO SHORTAGE AREAS LOAN FORGIVENESS PROGRAM. 1. PHYSICIAN LOAN FORGIVENESS AWARDS SHALL BE ISSUED ANNUALLY TO PHYSICIANS WHO AGREE TO RETURN TO A SHORTAGE AREA OF ORIGIN IN NEW YORK STATE DESIGNATED BY THE BOARD OF REGENTS AS HAVING A SHORTAGE OF PHYSICIANS IN CERTAIN SPECIALTY AREAS. FOR PURPOSES OF THIS SECTION, A SHORTAGE AREA OF ORIGIN SHALL MEAN ANY DESIGNATED PHYSICIAN SHORTAGE AREA WHERE THE PHYSICIAN PARTICIPANT HAD PREVIOUSLY LIVED FOR AT LEAST TWO YEARS. SUCH PARTICIPATING PHYSICIANS SHALL RECEIVE AN EDUCATIONAL LOAN FORGIVENESS AWARD OF UP TO FIFTEEN THOUSAND DOLLARS PER YEAR FOR A MAXIMUM OF FIVE YEARS. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS TO ADMINISTER SUCH LOAN FORGIVENESS PROGRAM.

2. THE PHYSICIAN APPLICANT MUST BE A RESIDENT OF NEW YORK STATE, LICENSED TO PRACTICE MEDICINE, AND CERTIFIED IN THE NEEDED SPECIALTY AREA OF MEDICINE. THE APPLICANT MUST HAVE COMPLETED A PROFESSIONAL RESI-

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

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DENCY 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. THE APPLICANT MUST AGREE TO PRACTICE MEDICINE IN AN AREA OF ORIGIN IN NEW YORK STATE DESIGNATED AS HAVING A SHORTAGE OF PHYSICIANS IN CERTAIN SPECIALTY AREAS.

3. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, 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 A YEAR OF THE SERVICE REQUIREMENT AND IS REAPPLYING FOR A NEW AWARD. THE CRITERIA SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

A. REAPPLICATION FOR A NEW AWARD BY A PERSON WHO IS COMPLETING THE SECOND YEAR OF A SERVICE REQUIREMENT;

B. RECEIPT OF SPECIFIC TRAINING OR EXPERIENCE MATCHING A SPECIALTY MEDICAL NEED EXISTING IN A SHORTAGE AREA OF ORIGIN; AND

C. AGREEMENT TO PRACTICE IN A SHORTAGE AREA OF ORIGIN DETERMINED BY THE BOARD OF REGENTS TO HAVE A SEVERE SHORTAGE OF SPECIALTY CARE PHYSICIAN SERVICES.

4. THE COMMISSIONER SHALL VERIFY THE PHYSICIAN'S ELIGIBILITY AND THE PHYSICIAN'S TOTAL MEDICAL EDUCATIONAL LOAN EXPENSES.

5. WITHIN SUCH TIME AS THE COMMISSIONER SHALL BY REGULATION PROVIDE, A PARTICIPATING PHYSICIAN SHALL HAVE AGREED TO PRACTICE MEDICINE IN A SPECIFIC SHORTAGE AREA OF ORIGIN DESIGNATED AS HAVING A SHORTAGE OF PHYSICIANS IN A SPECIALTY AREA FOR A PERIOD OF TWELVE MONTHS FOR EACH ANNUAL PAYMENT TO BE RECEIVED BY THE PARTICIPANT. IN NO CASE SHALL THE TOTAL SERVICE REQUIRED BE LESS THAN TWO YEARS NOR MORE THAN FIVE YEARS. THE COMMISSIONER SHALL DEVELOP AND SECURE FROM EACH PARTICIPANT, A WRITTEN AGREEMENT TO:

A. PRACTICE SPECIALTY MEDICINE IN THE DESIGNATED SHORTAGE AREA OF ORIGIN;

B. TO ACCEPT MEDICARE AND MEDICAID PAYMENTS; AND

C. TO PROVIDE THIRTY-FIVE HOURS PER WEEK OF DIRECT PATIENT CARE IN THE DESIGNATED SHORTAGE AREA OF ORIGIN BEING SERVED.

6. IF A RECIPIENT FAILS TO COMPLY FULLY WITH SUCH CONDITIONS, THE COMMISSIONER SHALL BE ENTITLED TO RECEIVE FROM SUCH PARTICIPANT AN AMOUNT TO BE DETERMINED BY THE FORMULA:

$$A = \frac{2B\,(T-S)}{T}$$

IN WHICH "A" IS THE AMOUNT THE COMMISSIONER 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 PARTICIPANT'S PERIOD OF OBLIGATED SERVICES; AND "S" IS THE NUMBER OF MONTHS OF SERVICE ACTUALLY RENDERED BY THE PARTICIPANT. ANY AMOUNT WHICH THE COMMISSIONER IS ENTITLED TO RECOVER UNDER THIS SUBDIVISION SHALL BE PAID WITHIN THE FIVE-YEAR PERIOD BEGINNING ON THE DATE THAT THE PARTICIPANT FAILED TO COMPLY WITH THIS PROGRAM CRITERIA. 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, PRACTICE, INSTITUTION OR 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 PARTICIPANT. THE

COMMISSIONER SHALL MAKE REGULATIONS TO PROVIDE FOR THE WAIVER OR SUSPENSION OF ANY FINANCIAL OBLIGATION WHICH WOULD INVOLVE EXTREME HARDSHIP.

7. A PARTICIPANT OF THE PROGRAM SHALL REPORT ANNUALLY TO THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION AND THE DEPARTMENT ON FORMS PRESCRIBED BY THE COMMISSIONER, AS TO THE PERFORMANCE OF THE REQUIRED SERVICES, COMMENCING WITH THE CALENDAR YEAR IN WHICH THE PARTICIPANT BEGINS TO PRACTICE MEDICINE IN A SHORTAGE AREA OF ORIGIN AND CONTINUING UNTIL THE RECIPIENT SHALL HAVE COMPLETED, OR IT IS DETERMINED THAT HE OR SHE SHALL NOT BE OBLIGATED TO COMPLETE, THE PROGRAM. THE COMMISSIONER SHALL HAVE THE DISCRETION TO WAIVE THE FILING OF A REPORT, EXCUSE A DELAY IN FILING OR A FAILURE TO FILE A REPORT FOR GOOD CAUSE SHOWN.

8. THE PROGRAM SHALL NOT PREVENT PARTICIPANTS FROM BEING ELIGIBLE TO APPLY FOR OTHER PROGRAMS OR AWARDS.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.