

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1591

H.P. 1148

House of Representatives, May 10, 1989

Reported by Representative CLARK from the Commission to Study the Status of Nursing Professions in Maine pursuant to Resolve 1987, chapter 106.

Reference to the Joint Standing Committee on Human Resources suggested and printing ordered under Joint Rule 18.

Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Relating to the Status of Nursing Professions in Maine.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 20-A MRSA c. 430-A is enacted to read:**

5 **CHAPTER 430-A**

7 **MAINE CHOICE PROGRAM**

9 **§12651. Maine Choice Program**

11 There is established the Maine Choice Program to recognize
13 Maine secondary school graduates who show strong academic ability
15 and to provide financial assistance for post-secondary education
17 of secondary school students. The program shall recognize
19 secondary school students and post-secondary students enrolled in
21 nursing programs who demonstrate academic ability to complete the
23 program, and shall disburse interest-free loans as described in
25 section 12653. The commissioner shall administer the program.

27 **§12652. Maine Choice Scholars**

29 Each year graduating secondary school students and
31 individuals enrolled in nursing programs who show evidence of
33 academic achievement and financial need may be nominated or may
35 apply for recognition as Maine Choice Scholars. Nominations and
37 applications shall be submitted to the commissioner at a time and
39 in a format to be determined by rule of the commissioner. The
41 commissioner shall determine the finalists.

43 The Governor shall announce the names of those individuals
45 who are recognized as Maine Choice Scholars.

47 **§12653. Allocation of funds**

49 1. Loans. Pursuant to rules adopted under section 12658,
51 the commissioner may grant to students recognized under section
53 12652 interest-free loans for post-secondary education of up to
55 \$2,500 per academic year. The loans shall be made from the fund
57 established in section 12657. The loans may not exceed a total
59 of \$12,500 for a student during the student's post-secondary
61 education. Loans shall be for one academic year and shall be
63 automatically renewed if the recipient maintains a grade point
65 average of 2.5 based on a 4.0 grade point system or a passing
67 grade in courses based on a pass-fail grading system. Students
69 whose instruction does not fall within a strict semester
71 structure shall be eligible for a maximum of \$12,500 in loans for
73 their post-secondary education based on loan disbursement
75 guidelines promulgated by the commissioner.

77 **§12654. Eligibility requirements**

1 1. Eligibility for post-secondary education loans.
2 Post-secondary education loans shall be given only to secondary
3 school graduates who are residents of Maine at the time of
4 application, who have been recognized as Maine Choice Scholars
5 and who have met other eligibility criteria established by rule
6 of the commissioner. Preference shall only be given to students
7 enrolled in a nursing program which has been determined to be in
8 an underserved health care region. For the purpose of this
9 chapter, "underserved health care region" means a geographic area
10 underserved by nursing professionals, a population group
11 underserved by nursing professionals or any combination of these
12 in the State.

13 2. Determination of underserved health care regions or
14 populations. The commissioner, the Director of the State
15 Development Office, the Department of Human Services, the
16 Department of Labor and a representative from the Maine Health
17 Policy Advisory Council shall make a determination of underserved
18 health care regions by considering the following:

19 A. Statistics on current employment patterns detailing the
20 level of qualified applicants for health care positions
21 available in underserved regions;

22 B. Numbers of students currently enrolled in programs
23 leading to nursing professions; and

24 C. Projected need for nursing professionals within the
25 State within the next 5 to 10 years and other criteria
26 deemed necessary by the commissioner.

27 3. Change of status. If a loan recipient is enrolled in a
28 program which was determined to be in an underserved health care
29 region and the program is later determined under subsection 2 not
30 to be underserved, the eligibility of that recipient for loans
31 pursuant to this chapter shall not be affected, except when a
32 recipient discontinues enrollment in the program prior to
33 completing the program and reenrolls at a time when the health
34 care region is no longer underserved.

35 §12655. Payment provisions

36 Payment of loans granted under section 12653 shall be made
37 each semester to the institution in which the loan recipient is
38 enrolled for credit to the recipient's account. Payment shall be
39 made within 60 days following receipt of evidence by the
40 commissioner that the loan recipient has become enrolled at the
41 post-secondary educational institution.

42 If a loan recipient withdraws from an institution and is
43 entitled to a refund of tuition, fees or other charges, the
44 institution shall pay to the State from that refund a sum equal

1 to the portion of the loan paid to the student for the portion of
2 the academic year that the student did not complete. That refund
3 shall be credited to the fund established in section 12657.

5 **§12656. Repayment provisions**

7 1. Forgiveness of loan. Each recipient of a loan granted
8 under section 12653 shall be relieved of the obligation to repay
9 the loan by completing 4 years of employment in an underserved
10 area of the State in the nursing profession in which the
11 recipient is educated. This employment shall be completed within
12 5 years of the recipient's graduation from the post-secondary
13 educational institution. Failure to fulfill the requirements of
14 this subsection shall obligate the recipient to repay the loan to
15 the State under the terms of this section.

17 2. Time for repayment. The recipient of a loan granted
18 under section 12653 shall repay the loan to the State upon the
19 recipient's graduation or withdrawal from a post-secondary
20 educational institution according to a schedule established by
21 the commissioner. The total annual repayment shall be determined
22 by dividing the loan amount by the number of years the recipient
23 attended the post-secondary educational institution and requiring
24 the recipient to repay 1/4 of that amount each year until the
25 loan is repaid. Due dates for repayments shall be set by the
26 commissioner.

27 3. Deferment. A recipient of a loan granted under section
28 12653 may seek a deferment of the annual principal payments for a
29 period not to exceed 2 years. A request for deferment shall be
30 made to the commissioner who shall determine if the deferment
31 request is reasonable and shall grant the request upon making
32 that determination. The decision of the commissioner shall be
33 final.

35 4. Change of program. If a recipient who was enrolled in a
36 program in an underserved health care region changes that course
37 of study to a program not in an underserved health care region or
38 subject area, the recipient shall repay the State for the total
39 amount of loans received by that recipient in the manner provided
40 in subsections 2 and 3.

43 **§12657. Nonlapsing revolving fund**

45 A nonlapsing, interest-earning revolving fund, known as the
46 Maine Choice Fund, is created to implement this chapter. Any
47 unexpended balance in the fund shall be carried over for
48 continued use under this chapter. Loan repayments under section
49 12656 shall be invested by the Treasurer of State, as provided by
50 law, with the earned income to be added to the fund. The
51 revolving fund may receive, invest and expend money from gifts.

1 grants, bequests and donations, in addition to money appropriated
2 by the State.

3 **§12658. Rules**

4 The commissioner shall adopt rules pursuant to the Maine
5 Administrative Procedure Act, Title 5, chapter 375, to implement
6 this chapter.

7 **Sec. 2. 20-A MRSA §12716, sub-§1, as enacted by PL 1985, c.**
8 **695, §11, is amended to read:**

9 **1. State scholarships.** The board of trustees shall develop
10 and administer a program of scholarships for institute students.
11 Awards shall be based on evidence of individual need and ~~worth~~
12 qualifications.

13 Students selected to receive a scholarship shall fulfill the
14 following qualifications:

15 A. Show evidence of the qualifications necessary to
16 complete a course of study successfully and to become a
17 competent technical or craft worker in an industrial,
18 administrative or trade pursuit;

19 B. Show demonstrated ability and willingness to support the
20 expenses of education and training; and

21 C. Show demonstrated need of financial assistance to help
22 pay the cost of institute attendance.

23 **Sec. 3. 20-A MRSA, §12716, sub-§4 is enacted to read:**

24 **4. Nursing ladder grants.** The board of trustees shall
25 develop and administer a program of scholarships for students
26 enrolled in certified nursing assistant programs, pursuant to
27 Title 32, section 2102, approved as career ladder programs under
28 section 12719. Within the limitations of available programs and
29 students who apply for scholarships, the board of trustees shall
30 provide a broad geographic representation in scholarship awards.

31 A. Students selected for scholarships shall, pursuant to
32 rules established by the board of trustees:

33 (1) Show an interest and capability to complete an
34 associate degree in nursing program;

35 (2) Demonstrate financial need; and

36 (3) Be accepted for employment in the State by a
37 nursing home as defined in Title 22, sections 1812-A
38 and 1812-B; hospitals as defined in Title 22, section

1 382; or home health care provider, as defined in Title
2 22, section 2142.

3
4 B. The scholarship shall include one of the following:

5 (1) For employees of nursing homes, the cost of
6 tuition and a stipend of up to \$400 in lieu of salary
7 when unpaid leave from work is taken to participate in
8 a certified nursing assistant program approved under
9 section 12719;

10 (2) For employees of home health agencies, the cost of
11 tuition and a stipend of up to \$400 for classroom
12 instruction and up to \$425 for clinical instruction,
13 when unpaid leave is taken to participate in a
14 certified nursing assistant program approved under
15 section 12719;

16 (3) For employees of hospitals, the cost of tuition
17 and a stipend of up to \$400 in lieu of salary when
18 unpaid leave from work is taken to participate in a
19 certified nursing assistant program approved under
20 section 12719; and

21 (4) For employees of nursing homes, hospitals or home
22 health agencies, the cost of administering a challenge
23 examination.

24
25 Sec. 4. 20-A MRS §12719 is enacted to read:

26
27 §12719. Certified nursing assistant education and career ladder
28 program

29 1. Board of trustees. The board of trustees shall
30 encourage institutions of higher education to establish education
31 programs for certified nursing assistants as defined in Title 32,
32 section 2102, subsection 8, and career ladder programs that
33 provide for the coordination of certified nursing assistant
34 programs and associate degree in nursing programs, so that
35 students completing certified nursing assistant programs may be
36 granted advanced placement in associate degree in nursing
37 programs if students elect to continue their education. The
38 board of trustees shall encourage the establishment of uniform
39 standards to permit the transfer of advanced placement credits
40 from one institute to another.

41 2. Approved certified nursing assistant career ladder
42 program. At the request of an institute, the State Board of
43 Nursing shall review any proposed or existing certified nursing
44 assistant program to be offered or offered by an educational
45 facility and determine if the program enables students to apply
46 the credits earned toward the degree requirements for an

1 associate degree in nursing degree program. That program shall
2 include an examination given by the post-secondary institution to
3 determine the advanced placement standing of students who
4 received their certificate as a nursing assistant from another
5 agency. The State Board of Nursing shall approve or disapprove
6 the certified nursing assistant program as being a career ladder
7 program meeting the requirements of this subsection.

9 3. Report. By March 1, 1990, the board of trustees shall
10 report to the joint standing committee of the Legislature having
11 jurisdiction over business legislation as to the progress toward
12 the establishment of certified nursing assistant career ladder
13 programs in the institutes and the effectiveness of the
14 scholarships offered under section 12716, subsection 4, in
15 attracting students into nursing.

17 Sec. 5. 22 MRSA §256 is enacted to read:

19 §256. Health care occupations manual

21 The Department of Labor shall compile a health care
22 occupations manual to be completed by September 1, 1990. If
23 after that date, the Board of Trustees of the University of Maine
24 System has established a center for research on the nursing
25 profession, the board of trustees shall have the responsibility
26 for updating the manual annually.

27 If no center for research is established, the Department of
28 Labor shall update the manual annually.

31 The manual shall provide the following information:

- 33 1. Listing. A listing of all health care occupations;
35 2. Description. A brief description of each occupation;
37 3. Education. All education requirements;
39 4. Training opportunities. A list of schools nationwide
40 offering training in various health care occupations;
41 5. Salary information. The health care average starting
42 salary for each health care occupation;
44 6. Licensing and certification. Licensing and
45 certification requirements for each health care occupation;
46 7. Cross training. Any opportunity for cross training;
48 8. Future needs. Projected needs for the next 5 years;
50

1 9. Refresher courses. Available refresher courses for any
2 listed occupations; and

3 10. Financial aid. Financial aid available for education.

4 **Sec. 6. 22 MRS §396-D, sub-§9, ¶G,** as enacted by PL 1987, c.
5 769, Pt. A, §65, is amended to read:

6 G. The Within 90 days of application by a hospital, the
7 commission shall include an adjustment to financial
8 requirements for increases in costs of compensation for
9 professional medical personnel, including nurses and
10 certified nurses aides,--to--the--extent--that--a . The
11 commission shall include adjustments for increases in the
12 cost of any fringe benefits that hospitals make available to
13 nurses and other medical professionals to enhance their
14 retention and recruitment efforts. The commission shall
15 also include adjustments for compensation for additional
16 housekeeping, dietary, clerical and other personnel who
17 would relieve nurses and other medical professionals of
18 responsibility for tasks that do no require their particular
19 skills. A hospital demonstrates shall demonstrate that such
20 increases are reasonably necessary to retain or recruit such
21 personnel; that such increases are in excess of the
22 increases attributable to the compensation proxy included in
23 the economic trend factor, that the hospital has passed on
24 the value of the compensation cost proxy in past years and
25 that the hospital will experience economic hardship without
26 additional funds. Economic hardship means an excess of
27 noncapital operating expenses over noncapital financial
28 requirements. In determining this adjustment, the
29 commission shall consider the current labor market
30 conditions affecting the hospital and the hospital's
31 compensation rates in relation to those of other similarly
32 situated hospitals. Those adjustments may be made during
33 the course of a payment year.

34 **Sec. 7. 22 MRS §2142 sub-§3,** as amended by PL 1985, c. 189,
35 §1, is further amended to read:

36 **3. Home health care provider.** "Home health care provider"
37 means any business entity or subdivision thereof, whether public
38 or private, proprietary or not for profit, which is engaged in
39 providing acute, restorative, rehabilitative, maintenance,
40 preventive or health promotion services through professional
41 nursing or another therapeutic service, such as physical therapy,
42 speech pathology, home health aides, nurse assistants, medical
43 social work, nutritionist services or personal care services,
44 either directly or through contractual agreement, in a client's
45 place of residence. This term does not apply to any sole
46 practitioner providing private duty nursing services or other
47 restorative, rehabilitative, maintenance, preventive or health

1 promotion services in a client's place of residence or to
3 municipal entities providing health promotion services in a
client's place of residence.

5 Home health care provider includes any business entity or its
7 subdivision that provides nurses to another organization on a
temporary basis.

9 **Sec. 8. 22 MRSA §2145, sub-§5** is enacted to read:

11 5. Professional development. Any agency providing nursing
13 services to an organization or agency shall provide professional
15 development which is comparable to the in-service and staff
development training required for the organization or agency to
which temporary staff are provided.

17 **Sec. 9. 22 MRSA §2150** is enacted to read:

19 **§2150. Compliance**

21 Any home health care provider that provides services for
23 which a license is required without obtaining a license commits a
25 civil violation and is subject to a civil penalty for which a
forfeiture of \$100 may be adjudged. Each day constitutes a
separate violation.

27 **Sec. 10. 26 MRSA §2157, sub-§2, ¶D** is enacted to read:

29 D. Facilities which are at their financial cap and are
31 unable to participate in this plan on a voluntary basis may
apply for funds from the Department of Human Services.

33 **Sec. 11. 26 MRSA §2158**, as enacted by PL 1987, c. 777, §3, is
35 amended to read:

37 **§2158. Repeal**

39 This chapter is repealed 3 5 years after the effective date
of this section.

41 **Sec. 12. 32 MRSA §2102, sub-§9** is enacted to read:

43 9. Preceptorship. "Preceptorship" means the supervised
45 period of transition between a nurse's graduation and licensure
during which an inexperienced nurse works as an intern with an
47 experienced professional nurse.

49 **Sec. 13. 32 MRSA §2104-A** is enacted to read:

51 **§2104-A. Preceptorship in acute care institution**

1 A nurse who is employed in a hospital and involved in direct
 3 patient care within one year of graduating from nursing school or
 5 a nursing education program shall complete a preceptorship of 3
 7 months in that hospital. The nurse shall function under the
 9 supervision and direction of the nursing staff of the institution
 11 during the preceptorship. During the preceptorship period, the
 13 nurse shall not be included as a staff member in computing the
 15 institution's patient-to-staff ratio.

17 **Sec. 14. Sunset.** The Maine Revised Statutes, Title 20-A,
 19 section 12716, subsection 4, and section 12719 are repealed
 21 effective June 30, 1992.

23 **Sec. 15. Appropriation.** The following funds are appropriated
 25 from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
EDUCATIONAL AND CULTURAL SERVICES,		
DEPARTMENT OF		
Higher Education Services		
Positions		(1)
Personal Services		\$32,584
All Other		7,000
TOTAL		<u>\$39,584</u>
Maine Choice Program		
All Other		\$500,000
DEPARTMENT OF EDUCATIONAL AND		
CULTURAL SERVICES		
TOTAL		<u>\$539,584</u>

LABOR, DEPARTMENT OF		
Administration - Labor		
Personal Services	\$25,000	
All Other	10,000	
TOTAL	<u>\$35,000</u>	
Provides for compilation of a state health care occupations manual.		
DEPARTMENT OF LABOR		

1	TOTAL	\$35,000	
3	HUMAN SERVICES, DEPARTMENT OF		
5	HEALTH OCCUPATIONS TRAINING		
7	LOAN PAY BACK PROGRAM		
9	All Other	\$500,000	\$500,000
11	Expansion of Health		
13	Occupations Training Loan Pay		
15	Back Program. For use by		
17	facilities who have reached		
19	their financial caps.		
21	DEPARTMENT OF HUMAN SERVICES		
23	TOTAL	\$500,000	\$500,000
25	MAINE VOCATIONAL-TECHNICAL		
27	INSTITUTE SYSTEM		
29	Board of Trustees of the Maine		
31	Vocational-Technical Institute		
33	System		
35	All Other	\$100,000	\$100,000
37	Provides scholarships for up		
39	to 100 nursing students.		
41	MAINE VOCATIONAL-TECHNICAL INSTITUTE		
43	SYSTEM		
45	TOTAL	\$100,000	\$100,000
47	APPROPRIATIONS		
49	TOTAL	\$635,000	\$1,139,584

Sec. 16. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1990-91

43	EDUCATIONAL AND CULTURAL		
45	SERVICES, DEPARTMENT OF		
47	Maine Choice Program		
49	All Other		\$500,000

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STATEMENT OF FACT

This bill implements the recommendations of the Commission to Study the Status of Nursing Professions in Maine.

This bill creates a Maine Choice Program to encourage higher education for career nurses in this State. With decreasing availability of federal funding, it is important that the State assume an active role in providing its citizens with educational assistance. The Maine Choice Program is an attempt to provide educational incentives to students choosing to enroll in nursing programs and practice in areas currently underserved in the State.

This bill provides scholarships for Maine Vocational-Technical Institute System nursing students who enroll in certified nursing assistant, or CNA, courses which can be used for advanced placement if the students decide to continue their nursing education. It also encourages the Maine Vocational-Technical Institute System to develop coordinated CNA and associate degree in nursing programs to enhance the career ladder options of nurses. The Board of Trustees of the Maine Vocational-Technical Institute System is required to make a report to the Legislature. The provisions will sunset on June 30, 1992.

It also requires the Department of Labor to compile a state health care occupations manual. This is in response to a commission finding that Maine lacks updated, quality public information on individual health occupations, such as minimum education requirements, licensing and the projected need for occupations in Maine.

The bill adds a provision to require the Maine Health Care Finance Commission to grant adjustments to hospitals' financial requirements to support the hiring of additional housekeeping, dietary, clerical and other personnel who would relieve nurses and other medical professionals of responsibility for tasks that do not require their professional skills. It also requires the Maine Health Care Finance Commission to include adjustments to hospitals' financial requirements for increases in any fringe benefits that hospitals make available to nurses and other medical professionals to enhance their retention and recruitment efforts. The commission must approve or disapprove adjustments within 90 days of receiving a hospital's application.

It also amends current law relating to home health care providers to require that agencies providing temporary per diem or hourly wage nursing staff must be licensed as home health care agencies and must provide training comparable to that required of the agencies to which temporary nursing staff are provided.

The bill expands the Health Occupations Training Project by adding a fund to provide money for upgrading education for

1 employees who work in facilities that have reached their capped
expenditure levels.

3

5 It also requires that nurses who are employed in hospitals
within one year of graduating from nursing school complete a
3-month preceptorship. During the preceptorship period, the
7 intern shall not be included in the computation of the
institution's patient-to-staff ratio.