

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
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PUBLIC LAWS

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privileges, duties and obligations of the university with respect to the indebtedness shall be governed by this chapter insofar as the chapter may be applicable.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective July 11, 1989.

CHAPTER 579

H.P. 956 - L.D. 1324

An Act Relating to the Status of Nursing Professions in Maine

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

Sec. 1. 5 MRSA §12004-I, sub-§7-A is enacted to read:

7-A. Education Maine Choice Expenses Only 20-A MRSA
Advisory Board for Nonstate §12658
Employees

Sec. 2. 20-A MRSA c. 430-A is enacted to read:

CHAPTER 430-A

MAINE CHOICE PROGRAM

§12651. Maine Choice Program

1. Establishment. There is established the Maine Choice Program to recognize secondary school graduates who show strong academic ability and to provide financial assistance for post-secondary education of secondary school students. The program shall recognize secondary school students and post-secondary students enrolled in programs in health care subject areas who demonstrate academic ability to complete the program, and shall disburse interest-free loans as described in section 12653. The commissioner shall administer the program.

2. Allocation of funds. At least 50% of the funds loaned under this program shall be made available to students enrolled in nursing programs. The remainder of the funds loaned shall be made available to students in allied health occupation programs, including nurse practitioner and physician's assistant programs.

§12652. Maine Choice Scholars

Each year graduating secondary school students and individuals enrolled in post-secondary education programs who show evidence of academic achievement may be nominated or may apply for recognition as Maine Choice Scholars. Nominations and applications shall be submitted to the commissioner at a time and in a format to be determined by rule of the commissioner. The Maine Choice Advisory Board shall determine the finalists.

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

§12653. Allocation of funds

1. Loans. Pursuant to rules adopted under section 12659, the commissioner may grant to students recognized under section 12652 interest-free loans for post-secondary education of up to \$2,500 per academic year. The loans shall be made from the fund established in section 12657. The loans may not exceed a total of \$12,500 per student for post-secondary education. Loans shall be for one academic year and shall be automatically renewed if the recipient maintains a grade point average of 2.5 based on a 4.0 grade point system or a passing grade in courses based on a pass-fail grading system. Students whose instruction does not fall within a strict semester structure shall be eligible for a maximum of \$12,500 in loans for their post-secondary education based on loan disbursement guidelines promulgated by the commissioner.

§12654. Eligibility requirements

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

Underserved health care subject areas shall include any undergraduate work that may be required to complete an advanced degree in an underserved health care specialty subject area.

2. Determination of underserved health care regions or subject areas. The Maine Choice Advisory Board shall make a determination of underserved health care regions and subject areas by considering the following:

A. Statistics on current employment patterns detailing the level of qualified applicants for health care positions available in underserved regions or subject areas;

B. Numbers of students currently enrolled in programs leading to health care professions; and

C. Projected need for health care professionals within the State within the next 5 to 10 years and other criteria deemed necessary by the board.

3. Change of status. If a loan recipient is enrolled in a program which was determined to be in an underserved

health care region or subject area and the program is later determined under subsection 2 not to be underserved, the eligibility of that recipient for loans pursuant to this chapter shall not be affected, except when a recipient discontinues enrollment in the program prior to completing the program and reenrolls at a time when the health care region or subject area is no longer underserved.

§12655. Payment provisions

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

If a loan recipient withdraws from an institution and is entitled to a refund of tuition, fees or other charges, the institution shall pay to the State from that refund a sum equal to the portion of the loan paid to the student for the portion of the academic year that the student did not complete. That refund shall be credited to the fund established in section 12657.

§12656. Repayment provisions

1. **Forgiveness of loan.** Each recipient of a loan granted under section 12653 shall be relieved of the obligation to repay 1/4 of the loan for each completed year of employment in the State in the health care profession in which the recipient is educated. This employment must be completed within 5 years of the recipient's graduation from the post-secondary educational institution. Failure to fulfill the requirements of this subsection shall obligate the recipient to repay the unforgiven portion of the loan to the State under the terms of this section.

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

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

4. **Change of program.** If a recipient who was enrolled in a program in an underserved health care region or subject area changes that course of study to a program not in an underserved health care region or subject area, the

recipient shall repay the State for the total amount of loans received by that recipient in the manner provided in subsections 2 and 3.

§12657. Nonlapsing revolving fund

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

§12658. Maine Choice Advisory Board

1. **Establishment.** There is established as authorized in Title 5, section 12004-I, the Maine Choice Advisory Board for the purposes of this chapter.

2. **Membership.** The advisory board shall consist of 10 members, including: the Commissioner of Educational and Cultural Services or the commissioner's designee, the Director of Health Planning and Development or the director's designee, the Commissioner of Labor or the commissioner's designee, the Director of the State Planning Office or the director's designee, a member of the Maine Health Policy Advisory Council appointed by its chair, 2 representatives of the nursing profession appointed by the Governor, 2 representatives of other allied health professions appointed by the Governor and one consumer appointed by the Governor.

3. **Terms of membership.** The terms of office of members appointed by the Governor shall be 3 years. Upon expiration of a member's term, the member shall serve until reappointed or until a successor is appointed. A vacancy shall be filled for the unexpired term in the same manner in which the initial appointment is made.

4. **Meetings.** The advisory board shall meet as necessary and may be convened at the call of the chair or any 3 members.

5. **Quorum.** Six members of the advisory board constitute a quorum.

6. **Compensation.** Members of the advisory board shall serve without compensation. Members who are not state employees shall receive expenses in accordance with Title 5, chapter 379.

7. **Powers and duties.** The advisory board shall make the determinations of underserved health care regions and subject areas required in section 12654 and shall determine finalists for Maine Choice Program loans as required in section 12652. The advisory board may perform other functions which are necessary to carry out those duties.

§12659. Future appropriation

The advisory board shall advise the commissioner before January 15, 1991, and every year thereafter, of the amount of necessary General Fund appropriations which must be requested in order to provide the Maine Choice Fund with adequate funds to be used for loan purposes and to maintain an adequate balance in the fund.

§12660. Rules

The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this chapter.

Sec. 3. 22 MRSA §256 is enacted to read:

§256. Health care occupations manual

The Department of Labor shall compile and annually update a health care occupations manual to be completed by September 1, 1991. The manual shall provide the following information:

1. Listing. A listing of all health care occupations;
2. Description. A brief description of each occupation;
3. Education. Minimum education requirements;
4. Education opportunities. Schools throughout New England offering education in various health care occupations;
5. Salary information. Average starting salary for each occupation;
6. Future needs. Projected needs for the next 5 years; and
7. Financial aid. Financial aid available for education.

Sec. 4. 22 MRSA c. 417 is enacted to read:

CHAPTER 417**TEMPORARY NURSE AGENCIES****§2131. Temporary nurse agencies**

1. Registration. Effective January 1, 1990, every temporary nurse agency shall register with the department. For purposes of this chapter, unless the context otherwise indicates, "temporary nurse agency" means a business entity or subdivision thereof that provides nurses to another organization on a temporary basis within this State.

2. Exception. Entities which are licensed as home health agencies under chapter 419 and temporary nurses not affiliated with an agency are exempt from the registration requirements of this chapter.

3. Fee. The fee for registration is \$25.

4. Penalty. Any person who operates a temporary nurse agency without registering commits a civil violation for which a forfeiture of \$100 may be adjudged. Each day constitutes a separate violation.

Sec. 5. 22 MRSA §2150 is enacted to read:

§2150. Compliance

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

Sec. 6. 26 MRSA §2158, as enacted by PL 1987, c. 777, §3, is amended to read:

§2158. Repeal

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

Sec. 7. 32 MRSA §2104-A is enacted to read:

§2104-A. Nurse orientation in institutions

A nurse who is employed in a hospital or nursing home and involved in direct patient care shall, at the beginning of the nurse's employment, participate in an individualized controlled learning experience adjusted for competency based upon practice standards and protocols. Each hospital or nursing home shall develop a plan with the employee for compliance with this section which shall contain a mutually agreed upon completion date. A copy of the plan shall be made a part of the nurse's personnel file. The staffing plan for the hospital or nursing home shall reflect current trainee competence.

Sec. 8. Nursing research and practice center. The Department of Human Services, in consultation with the Maine Health Policy Advisory Council, shall issue a request for proposals for research related to the nursing profession and to establish a nursing research and practice center within the State. The Office of Health Planning and Development shall provide services related to the issuance of the request for proposals subject to available resources. The office may also use existing resources to administer a grants program and in the computation of matching grants.

The Maine Health Policy Advisory Council shall establish a proposal review committee to assist the department with representatives of providers of nursing education in various educational settings, representatives of professional organizations of nurses and other interested parties. The Maine Health Policy Advisory Council shall monitor the recommendation made in this Act and advise the Office of Health Planning and Development concerning the request for proposal applications to the extent that the council has resources to do so.

The request shall indicate that acceptable areas for research include the following: effects that alternative models of nursing have on nurse-to-patient ratios and staff mix; the impact of advances in medical technology on nurse staffing, level and mix; comparative studies of predominantly female professions and health professions, including nursing, to further the understanding of the factors influencing career decisions; examination of the direct and indirect effects of various payment strategies on the number, mix and compensation levels of nursing personnel in all health care settings; the effects of salary and benefit packages on nurse supplies and demand, as well as recruitment and retention; strategies for eliminating salary compression; other issues concerning recruitment and retention of health care professions, including, but not limited to, the image of nursing; the value of apprenticeship programs; and development of a methodology for determining the advantages and disadvantages of costing out nursing services.

See title page for effective date.

CHAPTER 580

H.P. 1176 - L.D. 1630

An Act to Strengthen an Injured Employee's Right to Rehabilitation and to Improve the Workers' Compensation Rehabilitation System

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

Sec. 1. 39 MRSA §57-B, sub-§§1 and 2, as enacted by PL 1985, c. 372, Pt. A, §23, are amended to read:

1. Panel. The Apportionment Review Panel, as established by Title 5, chapter 379, shall be composed of 2 employee representatives, 2 employer or insurer representatives and one member representing medical or rehabilitation professionals.

A. The members shall be appointed by the Governor for terms of 3 years, except that initially one shall be appointed for a term of one year, 2 for terms of 2 years and 2 for terms of 3 years.

B. The Governor shall select one member to serve as ~~chairman~~ chair.

C. Members shall serve without compensation, except for reimbursement for travel and actual expenses necessarily incurred in performance of their duties.

D. If a matter with which a member has any connection comes before the panel, that member shall ~~excuse himself~~ be excused from hearing the matter.

E. The panel's recommendation must be by majority vote.

2. Payment for certain injuries. If an employee who has completed ~~an approved~~ a rehabilitation program under section 83, whether implementation is approved or ordered by the administrator, subsequently sustains a personal injury arising out of and in the course of employment and that injury, ~~in~~ combination with the prior injury, results in a reduction in earning capacity which is substantially greater in duration or degree, or both, than that which would have resulted from the subsequent injury alone, taking into account the age, education, employment opportunities and other factors related to the employee, the employer at the time of the subsequent injury is entitled to reimbursement from the Employment Rehabilitation Fund as provided in this section. An employer is not entitled to reimbursement from the fund in the event of subsequent injury if an injured employee returns to ~~his~~ the employee's preinjury job with the same employer without the provision of significant rehabilitation services or significant modification of the workplace.

Sec. 2. 39 MRSA §57-B, sub-§3, as amended by PL 1987, c. 560, §4, is further amended to read:

3. Reimbursement. The employer shall be reimbursed at least quarterly from the Employment Rehabilitation Fund for any weekly wage replacement benefits for which ~~he~~ the employer is liable under section 54-B, 55-B or 58-A, and which are paid by that employer.

A. An employer entitled to reimbursement under this section remains liable to the employee for all payments otherwise required from ~~him~~ the employer by this Act and remains responsible for carrying out the rehabilitation efforts required by ~~chapter~~ subchapter III-A as a result of the subsequent injury.

B. A commissioner shall order a reduction, suspension or termination of reimbursement of an employer under this section if the commissioner finds that the employer has not made a bona fide effort to return the employee to continuing ~~gainful~~ suitable employment.

Sec. 3. 39 MRSA §57-B, sub-§6, as enacted by PL 1985, c. 372, Pt. A, §23, is amended to read:

6. Hiring incentive; wage credit. If an employer hires an employee after the employee has completed ~~an approved~~ a rehabilitation program under section 83, whether implementation is approved or ordered by the administrator, that subsequent employer may apply for a wage credit under this subsection. For the purposes of this subsection, the term "employer" does not include the insurer of a subsequent employer or the same employer for whom an employee worked when ~~he~~ the employee sustained the injury for which ~~he~~ the employee received rehabilitation.

A. The subsequent employer must file an application for a wage credit by providing the administrator, within 2 weeks after the close of the first 90 days of employment of the employee, with a statement of the total direct wages, earnings or salary ~~he~~ the employer paid to the employee for the first 90 days of employ-