

LEGISLATIVE BILL 400

Approved by the Governor June 5, 1991

Introduced by Schellpeper, 18; Dierks, 40; Rogers, 41;
Smith, 33

AN ACT relating to public health and welfare; to amend sections 71-1,104, 71-5647, and 71-5649, Reissue Revised Statutes of Nebraska, 1943; to adopt the Rural Health Systems and Professional Incentive Act; to eliminate provisions relating to the Commission on Rural Health Manpower; to eliminate the Nebraska Medical Student Assistance Act; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 71-5601 to 71-5623, 71-5625 to 71-5631, 71-5632.01 to 71-5636, 71-5639 to 71-5645, and 71-5648, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 21 of this act shall be known and may be cited as the Rural Health Systems and Professional Incentive Act.

Sec. 2. (1) The Legislature finds that (a) residents of rural Nebraska frequently encounter difficulties in obtaining medical care due to the lack of health care providers, facilities, and services, (b) many rural communities experience problems in recruiting and retaining health care providers, (c) rural residents are often required to travel long distances in order to obtain health care services, (d) elderly and uninsured persons constitute a high proportion of the population in rural Nebraska, (e) many rural hospitals are experiencing declining patient revenue and are being forced to reconsider the scope and nature of the health care services they provide, (f) the physical and economic stresses of rural living can lead to an increased need for mental health services in rural Nebraska, (g) the conditions described in this section can lead to situations in which residents of rural Nebraska receive a lower level of health care services than their urban counterparts, and (h) some of the conditions described in this subsection also exist in underserved portions of metropolitan areas within the state.

(2) The Legislature further finds that the health care industry is a vital component of the economic base of many rural communities and that the maintenance and enhancement of this industry can play a significant role in efforts to further the economic development of rural communities.

(3) The Legislature further finds that the inherent limitations imposed upon health care delivery mechanisms by the rural environment can be partially overcome through a greater emphasis on the development of health care systems that emphasize the linkage and integration of health care resources in neighboring communities as well as the development of new resources.

(4) The Legislature further finds that postsecondary education of medical professionals is important to the welfare of the state. The Legislature further recognizes and declares that the state can help alleviate the problems of maldistribution and shortages of medical personnel through programs offering financial incentives to practice in areas of shortage.

Sec. 3. The purposes of the Rural Health Systems and Professional Incentive Act shall be to (1) create the Nebraska Rural Health Advisory Commission and establish its powers and duties, (2) establish a student loan program that will provide financial incentives to medical students and physician assistant students who agree to practice their profession in a designated medical profession shortage area within Nebraska, (3) establish a loan repayment program that will provide financial incentives to physicians and physician assistants who agree to practice their profession in a designated medical profession shortage area within Nebraska, and (4) establish a community-match program for student loans and loan repayments that will combine state and local resources to provide financial incentives to rural practice.

Sec. 4. For purposes of the Rural Health Systems and Professional Incentive Act:

(1) Commission shall mean the Nebraska Rural Health Advisory Commission;

(2) Department shall mean the Department of Health;

(3) Full-time practice shall mean a minimum of forty hours per week;

(4) Health care shall mean both somatic and mental health care services;

(5) Office shall mean the Office of Rural Health;

(6) Primary care shall mean family practice.

general practice, general internal medicine, general pediatrics, general surgery, and obstetrics and gynecology;

(7) Qualified educational debts shall mean government and commercial loans obtained by students for health profession school tuition, other educational expenses, and reasonable living expenses, as determined by the department, but shall not include loans received under the act or the Nebraska Medical Student Assistance Act; and

(8) Rural shall mean located within any county in Nebraska having a population of less than fifteen thousand inhabitants and not included within a Standard Metropolitan Statistical Area as defined in section 84-142.

Sec. 5. The Nebraska Rural Health Advisory Commission is hereby created as the direct and only successor to the Commission on Rural Health Manpower. All members of the Commission on Rural Health Manpower serving on the effective date of this act shall serve as members of the Nebraska Rural Health Advisory Commission for a period of time equal to the remainder of their terms on the Commission on Rural Health Manpower. Thereafter, the Nebraska Rural Health Advisory Commission shall consist of twelve members as follows:

(1) The Director of Health or his or her designee and the Director of Medical Services of the Department of Public Institutions or his or her designee; and

(2) Ten members to be appointed by the Governor with the advice and consent of the Legislature as follows:

(a) One representative of each medical school located in the state involved in training family physicians and one physician in family practice residency training; and

(b) From rural areas one physician, one consumer representative, one hospital administrator, one nursing home administrator, one nurse, one physician assistant, and one mental health professional.

Members shall serve for terms of three years. When a vacancy occurs, appointment to fill the vacancy shall be made for the balance of the term. All appointed members shall be citizens and residents of Nebraska. The appointed membership of the commission shall, to the extent possible, represent the three congressional districts equally.

Sec. 6. The purpose of the commission shall be to advise the Department of Health, the Legislature,

the Governor, the University of Nebraska, and the citizens of Nebraska regarding all aspects of rural health care and to advise the office regarding the administration of the Rural Health Systems and Professional Incentive Act.

Sec. 7. The commission shall annually elect from among its members a chairperson and a vice-chairperson. The Director of Health or his or her designee shall serve as permanent secretary to the commission, with assistance from the staff of the office.

Sec. 8. Members of the commission shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177 from funds appropriated for the Rural Health Systems and Professional Incentive Act.

Sec. 9. The commission shall hold at least four meetings a year, at times and places fixed by the commission. At least one meeting each year shall be held at a site other than Lincoln or Omaha. A majority of the members of the commission shall constitute a quorum.

Sec. 10. The commission shall have the following powers and duties:

(1) Advise the department regarding the development and implementation of a state rural health policy;

(2) Advise the department and other appropriate parties in all matters relating to rural health care;

(3) Serve as an advocate for rural Nebraska in health care issues;

(4) Maintain liaison with all agencies, groups, and organizations concerned with rural health care in order to facilitate integration of efforts and commonality of goals;

(5) Identify problems in the delivery of health care in rural Nebraska, in the education and training of health care providers in rural Nebraska, in the regulation of health care providers and institutions in rural Nebraska, and in any other matters relating to rural health care;

(6) Prepare recommendations to the appropriate bodies to alleviate the problems identified;

(7) Advise the department regarding the Rural Health Systems and Professional Incentive Act;

(8) Designate medical profession shortage areas in Nebraska; and

(9) Select recipients of financial incentives

available under the act.

Sec. 11. The Rural Health Systems and Professional Incentive Act shall be administered by the office with the advice and consultation of the commission.

Sec. 12. The financial incentives provided by the Rural Health Systems and Professional Incentive Act shall consist of (1) student loans to eligible students for attendance at an eligible school as determined pursuant to section 13 of this act and (2) the repayment by the state of qualified educational debts owed by eligible physicians or physician assistants as determined pursuant to such section. Funds for such incentives shall be appropriated from the General Fund to the department for such purposes.

Sec. 13. (1) To be eligible for a student loan under the Rural Health Systems and Professional Incentive Act, an applicant or a recipient shall be enrolled or accepted for enrollment in an accredited medical education program or physician assistant education program in Nebraska.

(2) To be eligible for loan repayment under the act, an applicant or a recipient shall be a medical student or a physician assistant student in the final year of education at an accredited medical or physician assistant education program in Nebraska, a graduate of an accredited medical education program in Nebraska enrolled in an accredited primary care or psychiatric residency program, or a graduate of an accredited medical or physician assistant education program in Nebraska who has been practicing in a designated medical profession shortage area in Nebraska for less than three years.

Sec. 14. (1) The amount of financial assistance provided through student loans pursuant to the Rural Health Systems and Professional Incentive Act shall be limited to ten thousand dollars for each recipient for each academic year and shall not exceed forty thousand dollars per medical student or twenty thousand dollars per physician assistant student.

(2) The amount of financial assistance provided through loan repayments pursuant to the act (a) for physicians shall be limited to ten thousand dollars per recipient per year of full-time practice in a designated medical profession shortage area and shall not exceed forty thousand dollars per recipient and (b) for physician assistants shall be limited to five thousand dollars per recipient per year of full-time practice in a designated medical profession shortage

area and shall not exceed twenty thousand dollars per recipient.

Sec. 15. In screening applicants for financial incentives, the commission shall consider the following factors:

(1) Motivation to practice in a medical profession shortage area in Nebraska;

(2) Motivation and preference toward primary care or psychiatry; and

(3) Other factors that would influence a choice to practice in a medical profession shortage area in Nebraska.

The commission shall select recipients who are most likely to practice in a medical profession shortage area in Nebraska.

Sec. 16. The commission shall periodically designate medical profession shortage areas within the state. The commission shall determine two levels of shortage so that stronger incentives may be tied to practice in areas of most critical need. In making such designations the commission shall consider, after consultation with other appropriate agencies concerned with medical services and with appropriate professional organizations, among other factors:

(1) The latest reliable statistical data available regarding the number of physicians and physician assistants practicing in an area and the population to be served by such practitioners;

(2) Inaccessibility of medical services to residents of an area;

(3) Particular local health problems;

(4) Age or incapacity of local practitioners rendering services; and

(5) Demographic trends in an area both past and future.

Sec. 17. Each student loan recipient shall execute an agreement with the state. Such agreement shall include the following terms, as appropriate:

(1) The borrower agrees to practice the equivalent of one year of full-time practice of primary care or psychiatry in a designated medical profession shortage area in Nebraska for each year of education for which a loan is received;

(2) If the borrower practices primary care or psychiatry in a designated medical profession shortage area in Nebraska determined by the commission to be among the areas of most critical need, the loan shall be forgiven as provided in this section. Practice in a designated area shall commence within three months of

the completion of formal education, which may include a period not to exceed five years to complete specialty training in a primary care specialty. Loan forgiveness shall occur on a quarterly basis, with completion of the equivalent of three months of full-time practice resulting in the cancellation of one-fourth of the annual loan amount, subject to the following:

(a) If the borrower practices primary care or psychiatry in a designated medical profession shortage area which is not among the areas of most critical need, the borrower shall repay fifty percent of the outstanding loan principal. Such repayment shall commence within six months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in a primary care specialty, and shall be completed within a period not to exceed twice the number of years for which loans were awarded;

(b) If the borrower practices primary care or psychiatry in Nebraska but not in a designated medical profession shortage area, practices a specialty other than primary care or psychiatry in Nebraska, or practices outside Nebraska, the borrower shall repay one hundred percent of the outstanding loan principal with interest at a rate of twenty-four percent simple interest. Such repayment shall commence within six months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in a primary care specialty, and shall be completed within a period not to exceed twice the number of years for which loans were awarded;

(c) If a borrower who is a medical student determines during the first or second year of medical education that his or her commitment to the loan program cannot be honored, the borrower may repay the outstanding loan principal plus six percent simple interest prior to graduation from medical school without further penalty or obligation. Physician assistant student loan recipients shall not be eligible for this provision; and

(d) If the borrower discontinues the course of study for which the loan was granted, the borrower shall repay one hundred percent of the outstanding loan principal. Such repayment shall commence within six months of the date of discontinuation of the course of study and shall be completed within the number of years for which loans were awarded; and

(3) In the event of a borrower's total and permanent disability or death, the unpaid debt accrued

under the Rural Health Systems and Professional Incentive Act shall be canceled.

Sec. 18. Loan agreements executed prior to July 1, 1991, under the Nebraska Medical Student Assistance Act may be renegotiated and new agreements executed to reflect the terms required by section 17 of this act. No funds repaid by borrowers under the terms of agreements executed prior to July 1, 1991, shall be refunded. Any repayments being made under the terms of prior agreements may be discontinued upon execution of a new agreement if conditions permit.

Sec. 19. Each loan repayment recipient shall execute an agreement with the state. Such agreement shall include, at a minimum, the following terms:

(1) The loan repayment recipient agrees to practice full-time primary care or psychiatry in a designated medical profession shortage area for the equivalent of at least two years; and

(2) In consideration of the agreement by the recipient, the State of Nebraska agrees to pay an amount up to ten thousand dollars per year per recipient for physicians and up to five thousand dollars per year per recipient for physician assistants toward qualified educational debts for a maximum of four years. Such payment shall be made directly to the lending institution and shall consist of quarterly payments of up to two thousand five hundred dollars to be made upon completion of three months of full-time practice.

Sec. 20. The office shall develop and implement a program by which communities or groups of communities within designated medical profession shortage areas provide a match to state loan repayment funds for physicians and physician assistants. Such community match shall be (1) at least five thousand dollars per year but not more than ten thousand dollars per year so that the total loan repayment does not exceed twenty thousand dollars per year per recipient for physicians and (2) at least two thousand five hundred dollars per year but not more than five thousand dollars per year so that the total loan repayment does not exceed ten thousand dollars per year per recipient for physician assistants. The office shall develop guidelines for community participation in the community-match program. The office shall provide consultation to potential community participants and facilitate the matching of communities, physicians, and physician assistants.

Sec. 21. The department shall adopt and promulgate rules and regulations necessary to the

administration of the Rural Health Systems and Professional Incentive Act.

Sec. 22. That section 71-1,104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,104. (1) Each applicant for a license to practice medicine and surgery shall (a)(i) present proof that he or she is a graduate of an accredited school or college of medicine, (ii) if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates that is currently effective and relates to such applicant or provide such credentials as are necessary to certify that such foreign medical graduate has successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service, or (iii) if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received the permanent certificate attesting to the same, provide such credentials as certify the same to the Department of Health, (b) present proof that he or she has served at least one year of graduate medical education approved by the Board of Examiners in Medicine and Surgery or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the board, and (c) pass an examination prescribed and conducted by the board and approved by the department covering appropriate medical subjects.

(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (1)(b) of this section, if the applicant has served at least one year of graduate medical education approved by such board and if the following conditions are met: (a) The applicant meets all other qualifications for a license to practice medicine and surgery; (b) the applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and (c) the applicant submits

proof that he or she will enter into the practice of medicine in a medical profession shortage area designated as such by the Commission on Nebraska Rural Health Manpower Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the medical profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director of Health, upon recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, upon the recommendation of the board, may grant or deny such application or may continue the license with limitations. The fee for a license to practice medicine and surgery based on a waiver of the requirement of more than one year of graduate medical education and the renewal of such license shall be the same as the fees prescribed in section 71-162.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the department may take disciplinary action against a license, granted on the basis of a waiver of the requirement of more than one year of graduate medical education, for violation of the limitations on the license. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Sec. 23. That section 71-5647, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5647. The Office of Rural Health is hereby created within the Department of Health. The office shall have the following powers and duties:

(1) To assist rural residents in obtaining high quality health care which includes the following:

(a) Assist in the recruitment and retention of health care professionals to rural areas, including specifically, physicians and nurses;

(b) Assist rural communities in maintaining

the viability of hospital services whenever feasible or, for communities in transition, in developing alternative systems to provide equivalent quality care to their residents;

(c) Assist rural communities in planning to meet changes needed due to the changing rural economy and demographics or new technology;

(d) Assist in the development of health care networks or cooperative ventures among rural communities or health care providers;

(e) Assist in promoting or developing demonstration projects to identify and establish alternative health care systems; and

(f) Assist rural communities in developing and identifying leaders and leadership skills among their residents to enable such communities to work toward appropriate and cost-effective solutions to the health care issues that confront them;

(2) To develop a comprehensive rural health policy to serve as a guide for the development of programs of the department aimed at improving health care in rural Nebraska and a rural health action plan to guide implementation of the policy;

(3) To establish liaison with other state agency efforts in the area of rural development and human ~~service~~ services delivery to ensure that the programs of the office are appropriately coordinated with these efforts and to encourage use of the comprehensive rural health policy by other agencies as a guide to their plans and programs affecting rural health;

(4) To develop and maintain an appropriate data system to identify present and potential rural health issues and to evaluate the effectiveness of programs and demonstration projects;

(5) To encourage and facilitate increased public awareness of issues affecting rural health care; ~~and~~

(6) To carry out its duties under the Rural Health Systems and Professional Incentive Act; and

(7) To carry out related duties as directed by the Director of Health.

Sec. 24. That section 71-5649, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5649. The Legislature shall appropriate sufficient funds to the Department of Health to enable the Office of Rural Health to carry out its duties pursuant to ~~sections~~ section 71-5647, ~~and 71-5648.~~

Sec. 25. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 26. That original sections 71-1,104, 71-5647, and 71-5649, Reissue Revised Statutes of Nebraska, 1943, and also sections 71-5601 to 71-5623, 71-5625 to 71-5631, 71-5632.01 to 71-5636, 71-5639 to 71-5645, and 71-5648, Reissue Revised Statutes of Nebraska, 1943, are repealed.