

HB 2738

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OFFICE OF THE
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2738

(By Delegate(s) Perdue, Perry, Fleischauer,
Lawrence, Marshall and Moore)



Passed April 13, 2013

In effect ninety days from passage.

FILED
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E N R O L L E D

CLERK OF SENATE
SECRETARY OF STATE

COMMITTEE SUBSTITUTE

FOR

H. B. 2738

(BY DELEGATES PERDUE, PERRY, FLEISCHAUER,
LAWRENCE, MARSHALL AND MOORE)

[Passed April 13, 2013: in effect ninety days from passage.]

AN ACT to repeal §30-7B-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §18C-3-2 and §18C-3-3 of said code; to amend said code by adding thereto a new section, designated §18C-3-4; and to amend and reenact §30-7B-2, §30-7B-3, §30-7B-4, §30-7B-5, §30-7B-6, §30-7B-7 and §30-7B-9 of said code, all relating generally to administration of financial aid and higher education scholarship programs by the Higher Education Policy Commission; redesignating the Health Sciences Scholarship Program as the Health Science Service Program; expanding program eligibility and award amounts; redefining medically underserved areas; providing state aid for certain students pursuing certain degrees; requiring a service commitment to state and setting forth alternatives to service; requiring legislative rules and specifying rule provisions; continuing Center for Nursing and

placing it under supervision of the Higher Education Policy Commission; moving the Center for Nursing special revenue account to the Higher Education Policy Commission; updating provisions regarding funding of the special revenue account; updating the powers and duties of the Center for Nursing; reorganizing the center's board of directors, updating membership and powers and duties of the board; authorizing reimbursement for board members' actual and necessary expenses; requiring annual reports to the Legislative Oversight Commission on Health and Human Resources Accountability and the Legislative Oversight Commission on Education Accountability; providing for financial aid programs to benefit nurses who teach or practice in West Virginia; setting out minimum financial aid amounts for nurses; establishing conditions for receipt of financial aid for nursing students; providing for reimbursement by nursing students who fail to meet service requirements for receipt of financial aid; defining terms; deleting obsolete language and making technical changes.

Be it enacted by the Legislature of West Virginia:

That §30-7B-8 of the Code of West Virginia, 1931, as amended, be repealed; that §18C-3-2 and §18C-3-3 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18C-3-4; and that §30-7B-2, §30-7B-3, §30-7B-4, §30-7B-5, §30-7B-6, §30-7B-7 and §30-7B-9 of said Code be amended and reenacted, all to read as follows:

**CHAPTER 18C. STUDENT LOANS;
SCHOLARSHIPS AND STATE AID.**

**ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN AND
SCHOLARSHIP PROGRAMS.**

§18C-3-2. State aid for students of optometry.

- 1 (a) The commission is authorized to enter into contracts with
- 2 an educational institution or institutions outside the state that
- 3 offer training in optometry, podiatry or veterinary medicine by

4 the terms of which the commission may obligate itself to pay the
5 institution, within the limits of any appropriation made for the
6 purpose, a stated amount per year for each West Virginia student
7 the institution will agree to accept for training in optometry,
8 podiatry or veterinary medicine.

9 (b) Each year the commission shall send to any appropriate
10 institution a certified list of all persons applying to the
11 commission for training in optometry, podiatry or veterinary
12 medicine who are bona fide citizens and residents of this state
13 prior to filing their applications, and who have completed either
14 within or without the state the course of study required by the
15 institution as a prerequisite to the study of optometry, podiatry
16 or veterinary medicine.

17 (c) Upon graduation from an educational institution for study
18 of optometry, podiatry or veterinary medicine, a person who
19 receives state aid under this section is required to meet one of the
20 following conditions:

21 (1) Practice full-time in this state in the field for which he or
22 she obtained financial aid, one year for each year the student
23 received financial aid under this section; or

24 (2) Reimburse the commission for the amount received
25 under this section. Repayments, including interest as set by the
26 vice chancellor for administration, collected from program
27 award recipients who fail to practice in West Virginia under the
28 terms of the program award agreement as set forth under this
29 section shall be returned to the commission for use in the
30 financial aid programs.

31 (d) The commission shall propose a legislative rule in
32 accordance with the provisions of article three-a, chapter twenty-
33 nine-a of this code to implement the provisions of this section.
34 The rule shall address at least the following items:

35 (1) Eligibility and selection criteria;

- 36 (2) Reimbursement and repayment;
 - 37 (3) Forgiveness options for death or disability;
 - 38 (4) Terms of an agreement to which the student must agree;
 - 39 and
 - 40 (5) An appeal process.
- 41 (e) If considered necessary by the commission, the
42 provisions of this section may be extended by legislative rule to
43 other professional degrees which are not provided in the state,
44 but which are needed to enhance the state's economy.

**§18C-3-3. Health sciences service program; establishment;
administration; eligibility.**

1 (a) *Legislative findings.* — The Legislature finds that there
2 is a critical need for additional practicing health care
3 professionals in West Virginia. Therefore, there is created a
4 health sciences service program to be administered by the vice
5 chancellor for health sciences. The purpose of this program is to
6 provide an incentive for health professional students to complete
7 their training and provide primary care in underserved areas of
8 West Virginia.

9 (b) *Establishment of special account.* — There is continued
10 a special revolving fund account under the higher education
11 policy commission in the State Treasury formerly known as the
12 "Health Sciences Scholarship Fund" and hereafter designated the
13 "Health Sciences Service Program Fund" to carry out the
14 purposes of this section. The fund consists of one or more of the
15 following:

- 16 (1) All unexpended health sciences scholarship funds on
17 deposit in the State Treasury on the effective date of this section;
- 18 (2) Appropriations as may be provided by the Legislature;

19 (3) Repayments, including interest as set by the vice
20 chancellor for health sciences, collected from program award
21 recipients who fail to practice or teach in West Virginia under
22 the terms of the program award agreement as set forth under this
23 section or the health sciences scholarship program previously
24 established by this section; or

25 (4) Amounts that may become available from other sources.

26 Balances remaining in the fund at the end of the fiscal year
27 shall not expire or revert to the general revenue. All costs
28 associated with the administration of this section shall be paid
29 from the Health Sciences Service Program Fund under the
30 direction of the vice chancellor for health sciences.

31 (c) *Eligibility requirements.* —

32 (1) An individual is eligible for consideration for a health
33 sciences service program award under the following conditions:

34 (1) The applicant is a fourth-year medical student at the
35 Marshall University School of Medicine, West Virginia School
36 of Osteopathic Medicine or West Virginia University School of
37 Medicine who has been accepted in a primary care
38 internship/residency program in West Virginia; or

39 (2) The applicant is enrolled in an approved education
40 program at a West Virginia institution leading to a degree or
41 certification in the field of nurse practitioner, nurse midwife,
42 physician assistant, physical therapist, doctoral clinical
43 psychologist, licensed independent clinical social worker, or
44 other disciplines identified as shortage fields by the vice
45 chancellor for health sciences; and

46 (3) The applicant signs an agreement to practice for at least
47 two years in an underserved area of West Virginia. An individual
48 also is eligible for consideration for a health sciences service
49 program award if the individual is pursuing a master's degree in

50 nursing and signs an agreement to teach at least two years for a
51 school of nursing located in West Virginia, as may be
52 determined by the vice chancellor for health sciences, after
53 receiving her or his master's degree. When making awards,
54 preference will be given to West Virginia residents.

55 (d) *Program awards.* — Program awards shall be in an
56 amount set by the Higher Education Policy Commission of at
57 least \$20,000 for medical students and at least \$10,000 for all
58 others and may be awarded by the vice chancellor for health
59 sciences, with the advice of an advisory panel, from the pool of
60 all applicants with a commitment to practice in an underserved
61 area of West Virginia. Nothing herein grants or guarantees an
62 applicant any right to a program award.

63 (e) *Repayment provisions.* — A program award recipient
64 who fails to practice in an underserved area of West Virginia
65 within six months of the completion of his or her training, who
66 fails to complete his or her training or who fails to complete the
67 required teaching is in breach of contract and is liable for
68 repayment of the program award and any accrued interest. The
69 granting or renewal of a license to practice in West Virginia or
70 to reciprocal licensure in another state based upon licensure in
71 West Virginia shall be contingent upon beginning payment and
72 continuing payment until repayment of the program award and
73 any accrued interest is complete. No license, renewal or
74 reciprocity shall be granted to persons whose repayments are in
75 arrears. The appropriate regulatory board shall inform all other
76 states where a recipient has reciprocated based upon West
77 Virginia licensure of any refusal to renew licensure in West
78 Virginia as a result of failure to repay the program award. This
79 provision shall be explained in bold type in the program award
80 contract. Repayment terms, not inconsistent with this section,
81 shall be established by the vice chancellor for health sciences
82 pursuant to rules as required under subsection (f) of this section.

83 (f) *Promulgation of rules.* — The Commission shall propose
84 rules pursuant to article three-a, chapter twenty nine-a of this

85 code necessary for the implementation and administration of this
86 section.

87 (g) *Definitions.* — For purposes of the repayment provisions
88 of this section:

89 (1) “Training” means the entire degree program or
90 certification program for nurse midwives, nurse practitioners,
91 physician assistants, physical therapists, doctoral clinical
92 psychologists, licensed independent clinical social workers, and
93 other disciplines identified as shortage fields by the vice
94 chancellor. The term also means the completion of a degree
95 program and includes completion of an approved
96 residency/internship program for students pursuing a degree in
97 medicine or a degree in osteopathy.

98 (2) “Underserved area” means any primary care health
99 professional shortage area located in the state as determined by
100 the Bureau for Public Health or any additional health
101 professional shortage area determined by the vice chancellor for
102 health sciences.

**§18C-3-4. Nursing financial aid program; funding;
administration; student awards; service
requirements.**

1 (a) There is continued in the State Treasury a special revenue
2 account known as the “Center for Nursing Fund” to be
3 administered by the commission for the purposes of this section.
4 Balances remaining in the fund at the end of the fiscal year shall
5 not expire or revert to the general revenue. All costs associated
6 with the administration of this section shall be paid from the
7 Center for Nursing Fund under the direction of the Vice
8 Chancellor for Administration. Administrative costs are to be
9 minimized and the maximum amount feasible is to be used to
10 fund awards for students in nursing programs.

11 (b) The account is funded from the following sources:

12 (1) A supplemental licensure fee not to exceed \$10 per year
13 to be paid by all nurses licensed by the Board of Examiners for
14 Registered Professional Nurses, pursuant to section eight-a,
15 article seven, chapter thirty of this code, and the Board of
16 Examiners for Licensed Practical Nurses, pursuant to section
17 seven-a, article seven-a, chapter thirty of this code;

18 (2) Repayments, including interest as set by the vice
19 chancellor for administration, collected from program award
20 recipients who fail to practice or teach in West Virginia under
21 the terms of the program award agreement as set forth under this
22 section; and

23 (3) Other public and private funds.

24 (c) In consultation with the board of directors of the West
25 Virginia Center for Nursing, established pursuant to article
26 seven-b, chapter thirty of this code, the commission shall
27 administer a financial aid program designed to benefit nurses
28 who practice in hospitals and other health care institutions or
29 teach in state nursing programs. Awards shall be made as
30 follows, subject to the terms of the rule provided for in this
31 section:

32 (A) An award of at least \$3,000 for a student in an approved
33 LPN nursing program located in the state. The student shall be
34 required to practice in West Virginia for at least one year;

35 (B) An award of at least \$7,500 for a student who has
36 completed half of an approved RN nursing program located in
37 West Virginia. A recipient shall be required to teach or practice
38 in West Virginia for at least two years.

39 (C) An award of at least \$15,000 to a student in a nursing
40 education master's degree program or doctoral student in an
41 approved nursing program located in West Virginia who shall be
42 required to teach in the state for at least two years.

43 (d) A student who has received financial aid under the
44 provisions of this section shall meet one of the following
45 conditions:

46 (1) Fulfill the service requirements provided in this section
47 and in any rules pertaining to this program which are duly
48 promulgated by the commission; or

49 (2) Reimburse the commission for the amount received
50 under this section together with accrued interest as provided by
51 the student agreement.

52 (e) The commission shall propose legislative rules in
53 accordance with the provisions of article three-a, chapter twenty-
54 nine-a of this code to implement the provisions of this section.
55 The rules shall address at least the following issues:

56 (1) Eligibility and selection criteria for participation in the
57 financial aid program;

58 (2) Terms of a student agreement which the student must
59 execute as a condition of receiving financial aid;

60 (3) Reimbursement and repayment by students who receive
61 financial aid but fail to fulfill the post-graduation practice
62 requirements;

63 (4) Forgiveness options for death or disability of a student
64 who received financial aid under this section; and

65 (5) An appeal process for students who were denied
66 participation or who have been ordered to pay reimbursement
67 and interest for failure to meet the conditions of receiving
68 financial aid.

69 (f) The commission shall report by the first of December
70 annually to the Legislative Oversight Commission on Health and
71 Human Resources Accountability and the Legislative Oversight
72 Commission on Education Accountability on the number of

73 students who have received awards and on all other matters
74 relevant to the provisions of this section.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 7B. CENTER FOR NURSING.

§30-7B-2. Definitions.

1 As used in this article, the following words have the
2 meanings ascribed to them unless the context clearly indicates a
3 different meaning:

4 (a) "Annual turnover rate" means the number of nurses who
5 leave an organization in a year divided by the average number of
6 nurses employed in that year;

7 (b) "Board" means the Board of Directors for the West
8 Virginia Center for Nursing.

9 (c) "Center" means the West Virginia Center for Nursing.

10 (d) "Direct patient care" means health care that provides for
11 the physical, emotional, diagnostic or rehabilitative needs of a
12 patient, or health care that involves examination, treatment or
13 preparation for diagnostic tests or procedures.

14 (e) "Hard to fill vacancy" means recruitment difficulties
15 experienced which include, but are not limited to, lack of
16 applicants, applicants who lack the proper qualifications,
17 competition and undesirable hours.

18 (f) "Vacancy rate" means the number of vacant budgeted
19 nursing positions divided by the total number of budgeted
20 nursing positions at a point in time.

§30-7B-3. West Virginia Center for Nursing.

1 (a) The West Virginia Center for Nursing is continued to
2 address the issues of recruitment and retention of nurses in West
3 Virginia.

4 (b) The Higher Education Policy Commission shall provide
5 suitable office space for the center and shall provide staff
6 support as necessary. The commission also shall share statistics
7 and other pertinent information with the center and shall work
8 cooperatively to assist it to achieve its objectives.

§30-7B-4. Center's powers and duties.

1 The center has the following responsibilities:

2 (a) Establish a statewide strategic plan to address the nursing
3 shortage in West Virginia;

4 (b) Establish and maintain a database of statistical
5 information regarding nursing supply, demand and turnover rates
6 in West Virginia and projections regarding future needs:

7 (1) The center shall collect data from employers annually
8 and shall collaborate with employers and other state agencies to
9 develop the best method for data collection.

10 (2) The data shall include vacancy rates, annual turnover rate
11 and statistics regarding hard to fill vacancies for all levels of
12 nurses.

13 (3) Employers of nurses who are surveyed shall provide data
14 by the deadline established by the center;

15 (4) The center shall report data in aggregate form by
16 workforce region and shall use the data to plan strategically for
17 recruitment and retention initiatives by region.

18 (5) Data received under this section that contains
19 information identifying specific patients or health care facilities
20 is confidential, is not subject to disclosure and may not be
21 released unless all identifying information is removed.

22 (c) Establish and maintain a website to disseminate
23 information about the center, its mission, educational
24 opportunities and financial aid available in West Virginia;

25 (d) Evaluate capacity for expansion of nursing programs,
26 including the availability of faculty, clinical laboratories,
27 computers and software, library holdings and supplies; and

28 (e) The center has the authority to perform other activities
29 necessary or expedient to accomplish the purposes and
30 implement the provisions of this article.

§30-7B-5. Board of directors.

1 (a) The center is governed by a board consisting of the
2 following members:

3 (1) Two representatives from the West Virginia Board of
4 Examiners for Registered Professional Nurses, as follows:

5 (A) One representing a bachelor and higher degree program;
6 and

7 (B) One representing an associate degree program;

8 (2) One representative from the West Virginia Board of
9 Examiners for Licensed Practical Nurses;

10 (3) One representative from the West Virginia Nurses
11 Association;

12 (4) One nurse representing a rural health care facility;

13 (5) One director of nursing;

14 (6) One health care administrator;

15 (7) One registered professional staff nurse engaged in direct
16 patient care;

17 (8) One licensed practical nurse engaged in direct patient
18 care;

19 (9) Two lay citizen members as required by section four-a,
20 article one, chapter thirty of this code;

21 (10) Two ex officio, non-voting members, as follows:

22 (A) The Secretary of the Department of Health and Human
23 Resources or his or her designee; and

24 (B) A representative from the Workforce Development
25 Office.

26 (b) After the initial terms expire, terms are four years and no
27 member may serve more than two consecutive terms.

28 (c) The board shall elect annually from its voting members
29 a president and a secretary as required by section three, article
30 one, chapter thirty of this code. A majority of the appointed
31 members constitutes a quorum.

32 (d) In the case of a vacancy, the Governor has thirty days to
33 fill the vacancy or the Board of Examiners for Registered
34 Professional Nurses shall appoint a member to serve on the
35 board.

36 (e) The members of the board who are in office on the
37 effective date of this section, unless sooner removed, shall
38 continue to serve until their respective terms expire and until
39 their successors have been appointed and qualified.

40 (f) Each member of the board is entitled to receive
41 reimbursement for expenses in accordance with article one,
42 chapter thirty of this code and section seven of this article.

§30-7B-6. Powers and duties of the board of directors.

1 (a) The board has the following powers and duties:

2 (1) Determine policy for the operation of the center to
3 accomplish the purposes of this article; and

4 (2) Advise the Higher Education Policy Commission on
5 matters pertaining to the administration of the nursing financial
6 aid program established pursuant to section four, article three,
7 chapter eighteen-c of this code.

8 (b) The board shall rely upon the staff of the Higher
9 Education Policy Commission to provide administrative and
10 professional support as needed.

§30-7B-7. Reimbursement for expenses.

1 (a) Members of the board shall serve without compensation,
2 but may be reimbursed for actual and necessary expenses
3 incurred for each day or portion thereof in which they are
4 engaged in the discharge of official duties. Reimbursements are
5 made in a manner consistent with guidelines of the travel
6 management office of the Department of Administration.

7 (b) The Higher Education Policy Commission shall provide
8 for members' reimbursement from the funds accrued in the
9 Center for Nursing Fund revenue account.

§30-7B-9. Reports.

1 The center shall report by December 1 of each year to the
2 Legislative Oversight Commission on Health and Human
3 Resources Accountability and the Legislative Oversight
4 Commission on Education Accountability on its progress in
5 developing a statewide strategic plan to address the nursing
6 shortage in West Virginia and on any other issues the board
7 considers relevant to the practice of nursing in this state.
8 Additionally, the board shall provide drafts of legislation needed
9 to implement recommendations of the center's strategic plan.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Jerry Wells
Chairman, House Committee

Rocky Filmon
Member ~~Chairman, Senate Com~~

Originating in the House.

In effect ninety days from passage.

Suzanne B. Bell
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

R. Ch...
Speaker of the House of Delegates

[Signature]
President of the Senate

OFFICE OF THE
SECRETARY OF STATE

2013 MAY -3 PM 7:15

FILED

The within *is disapproved* this the *3rd*
day of *May*, 2013.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 10:27 am