

RULES CERTIFICATE

Department of Commerce

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, William J. McCoshen, Secretary of the Department of Commerce,
and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to
The Physician and Health Care Loan Assistance Program
(Subject)

were duly approved and adopted by this department.

I further certify that said copy has been compared by me with the original on file in the department and
that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set
my hand at 201 West Washington Avenue
in the city of Madison, this 24
day of April A.D. 19 98

William J. McCoshen
For Secretary

7-1-98

ORDER OF ADOPTION

Department of Commerce

Pursuant to authority vested in the Department of Commerce by section(s) 560.183 and 560.184

_____ Stats., the Department of Commerce creates; amends;

repeals and recreates; repeals and adopts rules of Wisconsin Administrative Code chapter(s):

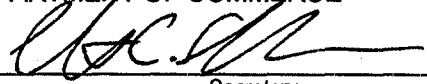
Chs. Comm 122 and 128 (number) _____ (Title)

The attached rules shall take effect on The first day of the month following publication in the Wisconsin Administrative Register pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin this

date: 4-24-98

DEPARTMENT OF COMMERCE



Secretary



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Chapters 122 and 128

Relating to: Physician and Health Care Provider Loan Assistance
Program

Clearinghouse Rule No.: 98-006

DEPARTMENT OF COMMERCE

RULES RELATING TO THE PHYSICIAN LOAN ASSISTANCE PROGRAM AND THE HEALTH CARE PROVIDER LOAN ASSISTANCE PROGRAM

The Department of Commerce hereby proposes to adopt rules to repeal and recreate chs. Comm 122 and 128, relating to the Physician and Health Care Provider Loan Assistance Programs.

Analysis of Rules

Statutory Authority: ss 560.183 and 560.184, Stats.

Pursuant to ss. 560.183 and 560.184, the Department of Commerce is responsible for administering the physician loan assistance program and the health care provider loan assistance program. Under these programs, the department awards grants of up to \$50,000 for physicians and up to \$25,000 for nurse practitioners, physician assistants, and certified nurse midwives who agree to practice primary care in a medically underserved area of the State. In the 1997 legislative session, the Wisconsin Legislature made changes to both programs designed to improve the ability of the highest need communities to recruit primary care providers to their area under 1997 Wisconsin Act 27. In addition, the statute now includes language which allows for Wisconsin's participation in a federal program that provides matching dollars for state loan repayment programs.

Under the changes made in statute, both the physician and health care provider loan assistance programs now provide the same dollar award over a 3-year period rather than a 5-year period and greater dollar amounts in the first two years of the contract. As a result, there are more significant provider restrictions than there were in the past. These restrictions relate to areas of practice, minimum clinical hours and weeks of practice and, in the case of the federal matching program, requirements as to Medicare assignment and the availability in the clinic of a sliding fee scale for patients who are uninsured. The rules enumerate these and other items that would cause a breach of agreement, and provide for penalties in the event of a breach. Also included are provisions for waivers of penalties and conditions under which a contract may be temporarily suspended.

Definitions of providers, the means by which priorities among applicants are decided, and the application process remain the same as in past programs and administrative rules.

Contact Person

M. Jane Thomas, Rural Health Specialist 608-267-3837

SECTION 1. Chapter Comm 122 is repealed and recreated to read:

Chapter Comm 122

PHYSICIAN LOAN ASSISTANCE PROGRAM

- Comm 122.01 Purpose.
- Comm 122.02 Definitions.
- Comm 122.03 Mental health shortage area.
- Comm 122.04 Priorities among eligible applicants.
- Comm 122.05 Application process.
- Comm 122.06 Breach of agreement.
- Comm 122.07 Penalties for breach of agreement.
- Comm 122.08 Waiver of penalties.
- Comm 122.09 Suspension.

Comm 122.01 PURPOSE. The purpose of this chapter is to establish provisions necessary for the administration of those aspects of the physician educational loan assistance program and the expanded loan assistance program which relate to the following:

- (1) The identification of eligible practice areas as provided under s. 560.183 (1) (ag), Stats.
- (2) The establishment of priorities among eligible applicants.
- (3) The procedures under which physicians may apply for assistance under this chapter and the procedures under which the department shall make determinations in regard to physician applications.
- (4) The penalties for breach of an agreement, and circumstances under which those penalties may be waived.

Comm 122.02 DEFINITIONS. In this chapter:

- (1) "Department" means the department of commerce.
- (2) "Educational loan" means a health education assistance loan, a plus loan, a national direct student loan, a stafford loan, a health professions student loan, a supplemental loan for students, a guaranteed student loan from a state education financial aid office, a university sponsored student loan, a trust fund loan, a scholastic loan, a foundation loan or any other loan that the department determines is exclusively for educational

purposes, and that was obtained by the physician from a public or private lending institution for education in an accredited school of medicine or for post graduate medical training.

(3) "Eligible practice area" has the meaning set forth in s. 560.183 (1) (ag), Stats.

(4) "Mental health shortage area" has the meaning contained in s. 560.183 (1) (ap), Stats.

Comm 122.03 MENTAL HEALTH SHORTAGE AREA. (1) The department shall identify as a mental health shortage area any geographic area that conforms to the definition in s. Comm 122.02 (4).

(2) In addition to conforming to s. Comm 122.02 (4), a written agreement between the department and a physician specializing in psychiatry shall require that the physician enter into an agreement with the board or boards created under s. 51.42, Stats., which operate in the mental health shortage area, to provide at least 8 hours of psychiatric care per week to clients of the board or boards.

Comm 122.04 PRIORITIES AMONG ELIGIBLE APPLICANTS. If the cost of repaying the educational loans of all eligible applicants, when added to the cost of educational loan repayments scheduled under existing agreements, exceeds the total amount in the appropriations under s. 20.143 (1) (f), (o), and (jm), Stats., the department shall establish priorities among eligible applicants based upon the following considerations:

(1) **EXTREMELY HIGH NEED FOR MEDICAL CARE.** The degree to which there is an extremely high need for medical care in the eligible practice area in which the physician proposes to practice.

(2) **PHYSICIAN RETENTION.** The likelihood of long term retention of the physician.

(3) **PER CAPITA INCOME.** The average per capita income in the eligible practice area in which the physician plans to practice.

(4) **FINANCIAL SUPPORT FOR PHYSICIAN RECRUITMENT AND RETENTION.** The extent of local financial support provided to recruit or retain the physician for the eligible practice area.

(5) **LENGTH OF SERVICE.** The degree to which the physician is new to the eligible practice area.

(6) **PROVISION OF OBSTETRIC SERVICES.** The agreement of a primary care physician to provide obstetric services.

(7) **GEOGRAPHIC DISTRIBUTION.** The geographical distribution of physicians with whom the department has existing agreements and the geographical distribution of eligible applicants.

(8) **EDUCATIONAL LOAN BALANCE.** The educational loan balance of the eligible applicant.

Comm 122.05 APPLICATION PROCESS. (1) Applications shall be in such form as the department may require and shall contain the following information:

- (a) Evidence pertaining to dates of accredited medical school attendance and graduation.
- (b) Evidence of educational loan indebtedness and education loan outstanding balance.
- (c) The location of the applicant's current or proposed practice.
- (d) Any other information the department may require to make a determination in accordance with the provisions of s. 560.183, Stats., and this chapter.

(2) The department shall provide application materials.

Comm 122.06 BREACH OF AGREEMENT. (1) The following actions, if taken by a physician who has entered into an agreement with the department under the state physician loan repayment program for repayment of loans entirely from state funds, after the effective date of these rules, shall constitute a breach of that agreement:

- (a) No longer practicing at an eligible clinic.
- (b) Reducing hours below the minimum required by the department.
- (c) Failing to treat medicare or medicaid patients.
- (d) Failing to apply funds received from the department to repayment of eligible loans.
- (e) Failing to timely supply documentation required by the department.
- (f) Failing to work at least 45 weeks per year.

(2) The following actions, if taken by a physician who has entered into an agreement with the department under the expanded loan assistance program under § 560.183 (9), shall constitute a breach of that agreement:

- (a) No longer practicing at a public or private, nonprofit entity.
- (b) Reducing hours below the minimum required by the department.
- (c) Failing to take medicare assignment.
- (d) Failing to treat medicaid patients.
- (e) Failing to apply funds received from the department to repayment of eligible loans.
- (f) Failing to timely supply documentation required by the department.
- (g) Failing to work at least 45 weeks per year.
- (h) Failing to use a sliding fee scale or comparable method of determining payment arrangements for patients who are not eligible for medicare or medical assistance and who are unable to pay the customary fee for the physician's services. Sliding fee scales may vary from clinic to clinic but, at a minimum, should address persons with incomes below 200% of the federal poverty level.

Comm 122.07 PENALTIES FOR BREACH OF AGREEMENT. (1) A physician who breaches an agreement with the department in the first year of the physician's obligation shall repay to the department the amount already received plus an amount equal to the total months of obligation multiplied by \$1,000.

(2) A physician who breaches an agreement with the department in the second year of the physician's obligation shall repay to the department the amount already received plus an amount equal to the number of unserved months multiplied by \$1,000.

(3) A physician who breaches an agreement with the department in the third year of the physician's obligation shall repay to the department the amount already received for unserved months plus an amount equal to the number of unserved months multiplied by \$1,000.

Comm 122.08 WAIVER OF PENALTIES. The department may waive any penalty for breach of agreement if the physician is unable to serve or repay due to a permanent physical or mental impairment that prevents the physician from working in the physician's profession. The physician shall provide verification of his or her condition from an appropriate board certified specialist or specialists that will reasonably convince the department that the physician will be unable to continue working in the physician's profession.

Comm 122.09 SUSPENSION. A physician's contract may be suspended by the department, without penalty, for a period of time agreed upon by the physician and the department for certain hardships, including an extended illness or family leave that exceeds the

maximum of seven weeks off allotted each year, or termination of employment that requires the physician to seek employment in another eligible practice site.

SECTION 2. Chapter Comm 128 is repealed and recreated to read:

Chapter Comm 128

HEALTH CARE PROVIDER LOAN ASSISTANCE PROGRAM

Comm 128.01 Purpose.

Comm 128.02 Definitions.

Comm 128.03 Priorities among eligible applicants.

Comm 128.04 Application process.

Comm 128.05 Breach of agreement.

Comm 128.06 Penalties for breach of agreement.

Comm 128.07 Waiver of penalties.

Comm 128.08 Suspension.

Comm 128.01 PURPOSE. The purpose of this chapter is to establish the procedures under which health care providers may apply for assistance under this chapter; to establish priorities among eligible applicants in the event that the number of applicants exceeds available funding; and to establish penalties for breach of an agreement, including circumstances under which those penalties may be waived.

Comm 128.02 DEFINITIONS. In this chapter:

- (1) "Department" means the department of commerce.
- (2) "Educational loan" means a health education assistance loan, a plus loan, a national direct student loan, a stafford loan, a health professions student loan, a supplemental loan for students, a guaranteed student loan from a state education financial aid office, a university sponsored student loan, a trust fund loan, a scholastic loan, a foundation loan or any other loan that the department determines is exclusively for educational purposes, and that was obtained by the health care provider from a public or private lending institution for education related to the health care provider's field of practice.
- (3) "Eligible practice area" has the meaning contained in s. 560.184(1) (am), Stats.
- (4) "Health care provider" has the meaning contained in s. 560.184 (1) (b), Stats.

(5) "Nurse-midwife" means a person who practices nurse-midwifery in accordance with s. 441.15, Stats.

(6) "Nurse practitioner" means a person who meets the requirements of s. 632.895 (8) (a) 3., Stats., or who is licensed as a registered nurse under ch. 441, Stats., or the laws of another state and who satisfies any of the following:

(a) Is certified as a primary care nurse practitioner or clinical nurse specialist by the american nurses' credentialing center, the national certification corporation, the national certification board of pediatric nurse practitioners and nurses, the american academy of nurse practitioners, or by another certifying body approved by the american board of nursing specialties.

(b) Has completed an educational program approved by one of the certifying bodies listed in par. (a) and who is eligible, or who upon completion of the minimum time-in-practice requirement will be eligible, to take the professional certification examination as an advanced practice nurse.

(7) "Physician assistant" has the meaning contained in s. 448.01 (6), Stats.

(8) "Primary care" means basic health care services including general assessment, treatment, and management of common acute and chronic medical conditions, health promotion and disease prevention, and prenatal care and delivery services.

Comm 128.03 PRIORITIES AMONG ELIGIBLE APPLICANTS.

(1) Any health care provider who practices in an eligible practice area and who provides primary care is eligible for educational loan repayment as provided in s. 560.184 (4), Stats.

(2) If the cost of repaying the educational loans of all eligible applicants, when added to the cost of educational loan repayments scheduled under existing agreements, exceeds the total amount in the appropriations under s. 20.143 (1) (f), (o), and (jl), Stats., the department shall establish priorities among eligible applicants based upon the following considerations:

(a) Extremely high need for medical care. The degree to which there is an extremely high need for medical care in the eligible practice area in which the eligible applicant proposes to practice.

(b) Health care provider retention. The likelihood that an eligible applicant will remain in the eligible practice area in which he or she desires to practice after the loan repayment period.

(c) Per capita income. The per capita income of the eligible practice area in which an eligible applicant desires to practice.

(d) Financial support for health care provider recruitment and retention. The financial or other support for health care provider recruitment and retention provided by individuals, organizations or local governments in the eligible practice area in which an eligible applicant desires to practice.

(e) Geographic distribution. The geographical distribution of the health care providers who have entered into loan repayment agreements under this section and the geographical location of the eligible practice area in which an eligible applicant desires to practice.

(f) Length of service. The degree to which the medical service is new to the eligible practice area.

(g) Loan balance. The educational loan balance of the eligible applicant.

Comm 128.04 APPLICATION PROCESS. (1) Applications shall be in such form as the department may require and shall contain the following information:

(a) Evidence of health care professional educational program attendance.

(b) Evidence of licensure or certification as a nurse-midwife, nurse practitioner or physician assistant.

(c) Evidence of educational loan indebtedness and educational loan outstanding balance.

(d) The location of the applicant's current or proposed practice.

(e) Evidence that the provider practices or will practice primary care in an eligible practice area.

(f) The length of time the health care provider has practiced in the eligible practice area.

(g) Information about the likelihood that the applicant will remain in the eligible practice area after the loan repayment period.

(h) Any other information the department may require to make a determination in accordance with the provisions of s. 560.184, Stats., and this chapter.

(2) The department shall prepare application materials that it may update as necessary.

Comm 128.05 BREACH OF AGREEMENT. (1) The following actions, if taken by a provider who has entered into an agreement with the department under the state health care provider loan repayment program for repayment of loans entirely from state funds, after the effective date of these rules, shall constitute a breach of that agreement:

- (a) No longer practicing at an eligible clinic.
- (b) Reducing hours below the minimum required by the department.
- (c) Failing to treat medicare or medicaid patients.
- (d) Failing to apply funds received from the department to repayment of eligible loans.
- (e) Failing to timely supply documentation required by the department.
- (f) Failing to work at least 45 weeks per year.

(2) The following actions, if taken by a provider who has entered into an agreement with the department under the expanded loan assistance program under s. 560.184(3)(a), Stats., shall constitute a breach of that agreement:

- (a) No longer practicing at an eligible clinic.
- (b) Reducing hours below the minimum required by the department.
- (c) Failing to take medicare assignment.
- (d) Failing to treat medicaid patients.
- (e) Failing to apply funds received from the department to repayment of eligible loans.
- (f) Failing to timely supply documentation required by the department.
- (g) Failing to work at least 45 weeks per year.
- (h) Failing to use a sliding fee scale or comparable method of determining payment arrangements for patients who are not eligible for medicare or medical assistance and who are unable to pay the customary fee for the health care provider's services. Sliding fee scales may vary from clinic to clinic but, at a minimum, should address persons with incomes below 200% of the federal poverty level.

Comm 128.06 PENALTIES FOR BREACH OF AGREEMENT. (1) A

provider who breaches an agreement with the department in the first year of the provider's obligation shall repay to the department the amount already received plus an amount equal to the total months of obligation multiplied by \$500.

(2) A provider who breaches an agreement with the department in the second year of the provider's obligation shall repay to the department the amount already received plus an amount equal to the number of unserved months multiplied by \$500.

(3) A provider who breaches an agreement with the department in the third year of the provider's obligation shall repay to the department the amount already received for unserved months plus an amount equal to the number of unserved months multiplied by \$500.

Comm 128.07 WAIVER OF PENALTIES. The department may waive any penalty for breach of agreement if the provider is unable to serve or repay due to a permanent physical or mental impairment that prevents the provider from working in the provider's profession. The provider shall provide verification of his or her condition from an appropriate board certified specialist or specialists that will reasonably convince the department that the provider will be unable to continue working in the provider's profession.

Comm 128.08 SUSPENSION. A provider's contract may be suspended by the department, without penalty, for a period of time agreed upon by the provider and the department for certain hardships, including an extended illness or family leave that exceeds the maximum of seven weeks off allotted each year, or termination of employment that requires the provider to seek employment in another eligible practice site.

(END)

.....
Pursuant to s. 227.22 (2), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
William J. McCoshen, Secretary

April 24, 1998

Gary Poulson
Assistant Revisor of Statutes
Suite 800
131 West Wilson Street
Madison, Wisconsin 53703-3233

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 98-006

RULE NO.: Chs. Comm 122 and 128

RELATING TO: Physician and Health Care Provider Loan Assistance Program

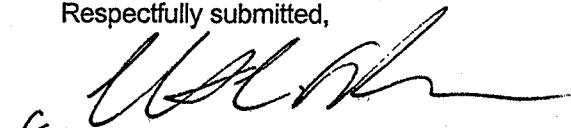
Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,


William J. McCoshen
Secretary