

JAN 21 2011

S.B. NO. 791

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that changes in
2 demographics, the delivery of health care services, and the
3 escalating costs of education have resulted in severe shortages
4 of health care professionals. A poor distribution of health
5 care professionals has resulted in a surplus of these
6 professionals in some areas of the State and a shortage in other
7 parts of the State, particularly in the more rural areas. The
8 rural shortage areas often require more services because the
9 health care needs are greater due to socio-economic or
10 geographic circumstances. The salary potential for shortage
11 areas is often not as favorable when compared to non-shortage
12 areas, resulting in many health care practitioners being
13 financially unable to serve in those shortage areas.

14 The legislature further finds that to successfully address
15 the health care shortage areas within the State:

16 (1) A loan repayment program should be structured to
17 obtain federal matching funds that would be used to
18 repay eligible student loans in exchange for a service



1 commitment by physicians and dentists practicing in
2 health professional shortage areas; and

3 (2) A recruitment program should be implemented. The
4 program would not receive federal matching funds.
5 Incentives would be awarded to public or private
6 nonprofit organizations, communities, or recruitment
7 health professionals practicing in areas designated by
8 the department of business, economic development, and
9 tourism that are experiencing a shortage of health
10 care professionals. Unlike the loan repayment
11 program, this program will be open to all health care
12 professionals, including physicians, dentists, mid-
13 level practitioners, pharmacists, allied health
14 professionals, and specialists, for example,
15 orthopedic surgeons, for whom there is an acknowledged
16 need in some areas of the State. The incentives could
17 be used also to provide financial support for spouses
18 and families of recruitment health professionals,
19 which is critical in recruiting and retaining health
20 care professionals in these areas. Finally, unlike
21 the loan repayment program, recruitment health



professionals would be able to practice in geographic areas not covered under the loan repayment program.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

HAWAII HEALTH CORPS PROGRAM

PART I. GENERAL PROVISIONS

§ -1 Definitions. As used in this chapter:

"Applicant" means an individual who has submitted a completed application for the loan repayment program or the recruitment program and meets the application requirements established by the department for the respective program.

"Approved site" means, for the purposes of the loan repayment program, a provider site that is a public or nonprofit private entity located in a health professional shortage area and approved by the department.

"Dentist" means an individual licensed to practice dentistry in the state under chapter 448.

"Department" means the department of business, economic development, and tourism.



1 "Eligible education" means education and training programs
2 approved by the department that lead to eligibility for
3 licensure as a repayment health care professional.

4 "Eligible expenses" means reasonable expenses associated
5 with the costs of acquiring an eligible education such as
6 tuition, books, equipment, fees, room and board, and other
7 expenses determined by the department.

8 "Health professional shortage area" means an area in the
9 State, designated by the department of health, where there are
10 shortages of health professionals. In making health
11 professional shortage area designations in the State, the
12 department of health shall be guided by applicable federal
13 standards.

14 "Incentives" means the cash or in-kind award made to a
15 recruitment recipient and includes awards made to a spouse or
16 the family of a recruitment health professional.

17 "Loan repayment program" means the loan repayment program
18 administered by the department.

19 "Physician" means an individual licensed to practice
20 medicine in the State pursuant to chapter 453.

21 "Qualifying educational loan" means a government or
22 commercial loan for eligible expenses.



1 "Recruitment health professional" includes physicians,
2 allopathic and osteopathic physicians (family practitioners,
3 internists, pediatricians, obstetricians and gynecologists, and
4 general psychiatrists), nurse practitioners, certified nurse-
5 midwives, physician assistants, dentists, registered clinical
6 dental hygienists, clinical or counseling psychologists, social
7 workers, psychiatric nurse specialists, mental health
8 counselors, licensed professional counselors, marriage and
9 family therapists, and health care specialists.

10 "Recruitment health professional shortage area" means a
11 health professional shortage area or other area determined by
12 the department of health to be experiencing a shortage of
13 recruitment health professionals.

14 "Recruitment program" means the health professional
15 recruitment and retention program that is administered by the
16 department.

17 "Recruitment recipient" means either a recruitment health
18 professional or a public or private nonprofit organization or
19 community that employs a recruitment health professional.

20 "Repayment health care professional" means a primary care
21 physician, family care practitioner, internist, pediatrician,
22 obstetrician, physician assistant, advance practice registered



1 nurse, naturopathic physician, general psychologist, or general
2 practice dentist.

3 "Repayment participant" means a health care professional
4 who has received a loan repayment award pursuant to the loan
5 repayment program established under section -11.

6 **PART II. LOAN REPAYMENT PROGRAM**

7 **§ -11 Loan repayment program established.** There is
8 established the loan repayment program within the department.
9 The loan repayment program shall be administered in a manner
10 that is consistent with the provisions of Title 42 United States
11 Code Section 254q-1, as may be amended from time to time.

12 **§ -12 Administration.** The loan repayment program shall
13 be administered by the department. The department shall:

- 14 (1) Accept applications from interested persons;
15 (2) Develop criteria for the selection of participants in
16 the loan repayment program;
17 (3) Select participants for the loan repayment program;
18 provided that the department shall not select more
19 than twenty individuals in one year and have no more
20 than one hundred individuals participating in the loan
21 repayment program at any one time, subject to



- 1 available funding and the need for health care
- 2 professionals in health professional shortage areas;
- 3 (4) Collect and manage repayments from repayment
- 4 participants who do not meet their service obligations
- 5 under this chapter, including enforcing the remedies
- 6 for breach of the service obligation;
- 7 (5) Publicize and market the loan repayment program,
- 8 particularly to maximize participation among
- 9 individuals in health professional shortage areas;
- 10 (6) Solicit and accept grants and donations from public
- 11 and private sources for the loan repayment program;
- 12 (7) Develop criteria for and enter into a contract with a
- 13 participant of the loan repayment program that
- 14 obligates the participant to complete the service
- 15 obligation and to comply fully with the terms and
- 16 conditions of the loan repayment program;
- 17 (8) Administer the recruitment program separately from the
- 18 loan repayment program;
- 19 (9) Establish a loan repayment program advisory group,
- 20 comprising representatives from government and the
- 21 health profession, including providers, community
- 22 health centers, and professional organizations, to:



- (A) Assist the department in developing criteria to select participants;
- (B) Determine areas having the greatest need for health professionals; and
- (C) Advise on other matters related to the administration of the loan repayment program.

The same members may serve on the advisory group for the loan repayment program and the recruitment program; and

- (10) Take any and all other actions necessary to administer the loan repayment program.

§ -13 Eligibility. To be eligible to participate in the loan repayment program, an individual shall:

- (1) Submit an application to the department;
- (2) Have a signed employment agreement or contract with an approved site;
- (3) Provide copies of loan documentation;
- (4) Be a United States citizen or a naturalized citizen of the United States;
- (5) Have no other outstanding contractual obligations for health professional services to the federal government, state government, or other entity or



1 organization, unless that service obligation will be
2 completely satisfied before the contract for the
3 service obligation under the loan repayment program is
4 signed;

5 (6) Have no judgment lien against the individual's
6 property for a debt to the United States;

7 (7) Have no history of failing to comply with, or
8 inability to comply with, service or payment
9 obligations;

10 (8) Has not defaulted on any federal payment obligation,
11 even if the creditor considers the obligation to be in
12 good standing;

13 (9) Has not breached a prior service obligation to the
14 federal, state, or local government or other entity or
15 organization, even if the obligation was subsequently
16 satisfied;

17 (10) Has not had any federal debt written off as
18 uncollectible (pursuant to Title 31 United States Code
19 Section 3711(a)) or had any federal service or payment
20 obligation waived;

21 (11) Perform the service obligation at an approved site;



(12) Provide full-time clinical services at an approved site;

(13) Charge for the individual's professional services at the usual and customary prevailing rates in the area where the services are provided; except that if any patient is unable to pay the charge, that patient may be charged at a reduced rate or not charged any fee;

(14) Agree not to discriminate on the basis of the patient's ability to pay or on the basis that the payment for care will be made pursuant to medicare, medicaid, or the state children's health insurance program;

(15) Agree to accept assignment under medicare under Title XVIII of the Social Security Act, enter into an appropriate agreement with the state agency that administers the state plan for medicaid under Title XIX of the Social Security Act, and enter into an appropriate agreement with the state children's health insurance program to provide service to children under Title XXI of the Social Security Act;



(16) Agree to pay back an amount specified by the department if the service obligation is not completed for any reason;

(17) Be a licensed and qualified repayment health care professional in the State and maintain licensure and qualifications during the service obligation period;

(18) Obtain and maintain any other licensure required of a repayment health care professional in the State; and

(19) Meet any other requirements that may be established by the department.

§ -14 Preference and selection. (a) In selecting participants for the loan repayment program, the department shall give preference to the following, in descending priority:

(1) Graduates of the University of Hawaii John A. Burns school of medicine;

(2) Graduates of out-of-state medical schools who are legal residents of Hawaii and are engaged in medical residency or practicing medicine in Hawaii; and

(3) Graduates of out-of-state medical schools who are graduates of high schools located in Hawaii and are engaged in medical residency or practicing medicine in Hawaii.



(b) The criteria used to select repayment participants for the loan repayment program shall be determined by the department. The criteria may include:

(1) The need for primary care physicians and dentists in health professional shortage areas;

(2) The willingness of an applicant to work full-time in the health professional shortage area; and

(3) The likelihood of the applicant continuing to practice in the health professional shortage area after the service obligation has been completed.

§ -15 Eligible expenses. The department shall only repay qualifying educational loans.

§ -16 Amount of the award. Subject to the availability of funding and the need for repayment health care professionals in health professional shortage areas, the amount of the award shall be determined by the department but shall not exceed the maximum amounts permitted to be awarded to participants of the loan repayment program under Title 42 United States Code Section 254q-1, as may be amended from time to time.

§ -17 Service obligation. A repayment participant shall serve full-time at an approved site for a minimum of two years with the possibility of extending the service obligation for



1 one-year terms, for a total service obligation not to exceed
2 five years. Periods of internship, preceptorship, clinical
3 training, or other postgraduate training shall not be counted
4 toward the service obligation.

5 § -18 **Cancellation of service obligation.** The
6 department may cancel a contract with a repayment participant
7 only upon the death of the repayment participant.

8 § -19 **Waiver of service obligation.** The department may
9 permanently waive the service obligation of a repayment
10 participant upon the receipt of documentation from the repayment
11 participant that a medical condition or a personal situation
12 makes compliance with the service obligation permanently
13 impossible, as determined by the department.

14 § -20 **Suspension.** The department may temporarily
15 suspend a repayment participant's service obligation upon the
16 receipt of documentation from the repayment participant of a
17 medical condition or personal situation that makes compliance
18 with the service obligation temporarily impossible, as
19 determined by the department.

20 § -21 **Default.** A repayment participant who fails to
21 complete the service obligation shall pay as a penalty the sum
22 of the following:



(1) The pro rata amount paid to or on behalf of a repayment participant for any period of obligated service not served;

(2) The amount equal to the number of months of obligated service not served multiplied by \$7,500; and

(3) Interest on the amounts under paragraphs (1) and (2) at the maximum prevailing interest rate determined by the Treasurer of the United States from the day of the default;

provided that the amount the State is entitled to collect shall not be less than \$31,000.

§ -22 Hawaii health corps first responder service

obligation. If a civil defense or other emergency is proclaimed under chapter 127 or 128, physicians and dentists participating in the Hawaii health corps program may be ordered into service by the governor as a critical action relief lineup to serve in areas of the State and in a capacity determined by the director.

§ -23 Hawaii health corps special fund. (a) There is

established within the state treasury a special fund to be known as the Hawaii health corps special fund to be administered and expended by the department.



1 (b) The fund shall be used to provide stipends to
2 qualifying Hawaii health corps physicians and dentists pursuant
3 to this chapter.

4 (c) Moneys deposited into the fund shall include
5 appropriations made by the legislature from general funds,
6 private contributions, stipend repayments, and interest on and
7 other income from the fund, which shall be separately accounted
8 for.

9 § -24 Rules. The department may adopt rules under
10 chapter 91 relating to the loan repayment program.

11 **PART III. RECRUITMENT PROGRAM**

12 § -31 Established. There is established the recruitment
13 program within the department.

14 § -32 Administration. The recruitment program shall be
15 administered by the department and shall:

16 (1) Maintain listings of communities and areas within the
17 State with a need for recruitment health
18 professionals;

19 (2) Maintain listings of recruitment health professionals
20 interested in working in the communities and areas
21 within the State with a need for recruitment health
22 professionals;



(3) Serve as an intermediary between communities or public or private nonprofit organizations and recruitment health professionals desiring to practice in recruitment health professional shortage areas;

(4) Collaborate with communities and public or private nonprofit organizations to recruit and retain recruitment health professionals to work and live in communities experiencing a shortage of recruitment health professionals;

(5) Collaborate with recruitment health professionals desiring to work in recruitment health professional shortage areas;

(6) Develop funding models for the recruitment program that provide for security and flexibility for recruitment health professionals;

(7) Develop incentive payment structures and packages that support recruitment health professionals, their spouses, and families, including professional liability insurance relief, cost of living allowances, income guarantee payments, housing allowances, vehicles, vehicle allowances, continuing medical education, telemedicine capabilities, waivers of fees,



1 or employment opportunities for the spouses of
2 recruitment health professionals;

3 (8) Collaborate with other agencies to minimize or remove
4 regulatory barriers to relocating or practicing in
5 health professional shortage areas;

6 (9) Select recruitment recipients using criteria
7 established by the department;

8 (10) Publicize and market the recruitment program;

9 (11) Solicit and accept grants and donations from public
10 and private sources for the recruitment program;

11 (12) Administer the recruitment program separately from the
12 loan repayment program, except to the extent provided
13 in this chapter;

14 (13) Enter into a contract with a recruitment recipient
15 that obligates the recruitment health professional to
16 provide the services of the recruitment health
17 professional in a recruitment health professional
18 shortage area for the length of the service
19 obligation;

20 (14) Establish a recruitment program advisory group,
21 comprising representatives from government and the



1 health profession, including providers, community
2 health centers, and professional organizations, to:

3 (A) Assist the department in developing criteria to
4 select participants for the recruitment program;

5 (B) Identify areas having the greatest need for
6 health professionals; and

7 (C) Advise on other matters related to the
8 administration of the recruitment program.

9 The same members may serve on the advisory group for
10 the loan repayment program and the recruitment
11 program; and

12 (15) Take any and all other actions necessary to administer
13 the recruitment program.

14 **§ -33 Selection and preference.** (a) In selecting
15 recruitment recipients to participate in the recruitment
16 program, the department shall give first priority preference to
17 recruitment health professionals who are:

18 (1) Graduates of the University of Hawaii John A. Burns
19 school of medicine;

20 (2) Graduates of a Hawaii residency program; or



(3) Residents of the State of Hawaii who have obtained residency through a minimum of three of the following criteria:

(A) Legal residence of the applicant for at least twelve months;

(B) Legal residence of the applicant's parents;

(C) The applicant's place of birth;

(D) Location of the high school from which the applicant graduated;

(E) The applicant is native Hawaiian;

(F) Location of the college or university that the applicant attended; or

(G) The applicant's parent or legal guardian is a University of Hawaii John A. Burns school of medicine graduate, graduate of a Hawaii residency program, or is a University of Hawaii John A. Burns school of medicine faculty member.

(b) The department shall give second priority preference to recruitment health professionals who are graduates of out-of-state medical schools or residency programs.



(c) The department shall develop criteria for selecting participants for the recruitment program. The criteria may include:

(1) The need for recruitment health professionals in recruitment health professional shortage areas;

(2) The willingness of a recruitment health professional or a recruitment health professional employed by an applicant to work full-time in recruitment health professional shortage areas; and

(3) The likelihood that a recruitment health professional or a recruitment health professional employed by the applicant will continue to practice in a recruitment health professional shortage area after the service obligation has been completed.

§ -34 Award of incentives. (a) Incentives shall be awarded only to recruitment recipients selected to participate in the recruitment program.

(b) Subject to available funding and the need for recruitment health professionals in a recruitment health professional shortage area, the amount of the incentives awarded to each recruitment recipient shall be determined by the



1 department but shall not exceed \$17,500 per recruitment
2 recipient per year.

3 **§ -35 Eligibility.** (a) The recruitment program shall
4 accept applications from recruitment health professionals or
5 public or nonprofit private entities or communities intending to
6 employ or currently employing a recruitment health professional.

7 (b) To be eligible to participate in the recruitment
8 program, a public or nonprofit private entity or community shall
9 employ or intend to employ and provide the services of a
10 recruitment health professional for the length of the service
11 obligation in the recruitment health professional shortage area.

12 (c) To be eligible to participate in the recruitment
13 program, a recruitment health professional shall:

14 (1) Be a United States citizen or a naturalized citizen of
15 the United States;

16 (2) Provide full-time services of a recruitment health
17 professional in the recruitment health professional
18 shortage area;

19 (3) Charge for the recruitment health professional's
20 professional services at the usual and customary
21 prevailing rates in the area where the services are
22 provided, except that if a patient is unable to pay



1 the charge, that patient may be charged at a reduced
2 rate or not charged any fee;

3 (4) Agree not to discriminate on the basis of the
4 patient's ability to pay or on the basis that the
5 payment for the care will be made pursuant to
6 medicare, medicaid, or the state children's health
7 insurance program;

8 (5) Agree to accept assignment under medicare under Title
9 XVIII of the Social Security Act, enter into an
10 appropriate agreement with the state agency that
11 administers the state plan for medicaid under Title
12 XIX of the Social Security Act, and enter into an
13 appropriate agreement with the state children's health
14 insurance program to provide service to children under
15 Title XXI of the Social Security Act;

16 (6) Agree to pay back an amount specified by the
17 department if the service obligation is not completed
18 for any reason;

19 (7) Be a licensed and qualified recruitment health
20 professional in the State and maintain the licensure
21 and qualifications during the service obligation
22 period;



(8) Obtain and maintain any other licensure required of recruitment health professionals in the State;

(9) Provide the services of a recruitment health professional in a recruitment health professional shortage area; and

(10) Meet any other requirements that may be established by the department.

§ -36 Service obligation. A recruitment health professional who participates in the recruitment program shall practice full-time in a recruitment health professional shortage area for a minimum of two years with the possibility of extending the service obligation for one-year terms for a total service obligation not to exceed five years. Periods of internship, preceptorship, clinical training, or other post-graduate training shall not be counted toward the service obligation.

§ -37 Recruitment health professional shortage areas. The recruitment recipients shall be located in and shall provide the services of a recruitment health professional in a recruitment health professional shortage area.

§ -38 Waiver of service obligation. The department may permanently waive the service obligation of a recruitment



1 recipient upon the receipt of documentation from the recruitment
2 recipient that a medical condition or a personal situation makes
3 compliance with the service obligation permanently impossible,
4 as determined by the department.

5 **§ -39 Suspension.** The department may temporarily
6 suspend the service obligation upon the receipt of documentation
7 by the recruitment recipient of a medical condition or personal
8 situation that makes compliance with the service obligation
9 temporarily impossible, as determined by the department.

10 **§ -40 Default.** A participant of the recruitment program
11 who fails to complete the service obligation shall pay as a
12 penalty the sum of the following:

- 13 (1) The pro rata amount paid to or on behalf of a
14 participant of the recruitment program for any period
15 of obligated service not served;
- 16 (2) The amount equal to the number of months of obligated
17 service not served multiplied by \$7,500; and
- 18 (3) Interest on the amount under paragraphs (1) and (2) at
19 the maximum prevailing interest rate determined by the
20 Treasurer of the United States from the day of the
21 default;



1 provided that the amount the State is entitled to collect shall
2 not be less than \$31,000.

3 **§ -41 Rules.** The department may adopt rules under
4 chapter 91 relating to the recruitment program.

5 **PART IV. FIRST RESPONDERS**

6 **§ -51 First responders.** All participants of the loan
7 repayment program and recruitment program shall serve as first
8 responders in the event of a declared emergency in the State or
9 at the request of the director of health.

10 **PART V. COORDINATION OF PROGRAMS**

11 **§ -61 Coordination.** Notwithstanding the requirement
12 that the loan repayment program and recruitment program shall be
13 administered separately, pursuant to sections -12 and -32,
14 the department shall:

15 (1) Determine the need for repayment health care
16 professionals and recruitment health professionals in
17 areas of the State experiencing a shortage of health
18 care professionals; and

19 (2) Select participants for the respective programs.

20 **§ -62 Coordination of funds.** Funds appropriated by the
21 legislature for the purposes of this chapter or received from
22 private sources may be allocated by the department between the



1 loan repayment program and recruitment program based on the need
2 for the funds and the need for either repayment health care
3 professionals or recruitment health professionals within the
4 State."

5 SECTION 3. Chapter 201, Hawaii Revised Statutes, is
6 amended by adding a new section to part I to be appropriately
7 designated and to read as follows:

8 "§201- Hawaii health corps program. The department of
9 business, economic development, and tourism shall administer the
10 Hawaii health corp program, pursuant to chapter ."

11 SECTION 4. (a) The department of business, economic
12 development, and tourism shall implement the Hawaii health corps
13 program no later than June 30, 2012.

14 (b) For the purposes of efficiency in the implementation
15 of the Hawaii health corps program, the department shall award a
16 minimum of thirty stipends of \$30,000 per recipient in the first
17 year of the program, an additional thirty stipends of \$30,000
18 per recipient in the second year of the program, and an
19 additional thirty stipends of \$30,000 per recipient in the third
20 year of the program. Thereafter, the department shall award
21 annually a maximum of one hundred stipends.



1 (c) The director of business, economic development, and
2 tourism shall report to the legislature on the status of the
3 Hawaii health corps program no later than twenty days prior to
4 the convening of each regular session of the legislature
5 beginning with the regular session of 2012.

6 SECTION 5. If any part of this Act is found to be in
7 conflict with federal requirements that are a prescribed
8 condition for the allocation of federal funds to the State, the
9 conflicting part of this Act is inoperative solely to the extent
10 of the conflict and with respect to the agencies directly
11 affected, and this finding does not affect the operation of the
12 remainder of this Act in its application to the agencies
13 concerned. The rules under this Act shall meet federal
14 requirements that are a necessary condition to the receipt of
15 federal funds by the State.

16 SECTION 6. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2011-2012 and
19 the same sum or so much thereof as may be necessary for fiscal
20 year 2012-2013 to carry out the purposes this Act.



1 The sums appropriated shall be expended by the department
2 of business, economic development, and tourism for the purposes
3 of this Act.

4 SECTION 7. This Act shall take effect on July 1, 2011.
5

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Report Title:

Health; Hawaii Health Corp; Appropriation

Description:

Creates the Hawaii health corps program. Makes an appropriation to the department of business, economic development, and tourism to implement the Hawaii health corps program.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

