

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 6A - PUBLIC HEALTH SERVICE
SUBCHAPTER VI - NURSING WORKFORCE DEVELOPMENT
Part E - *Student Loans*

Sec. 297a. Student loan fund

-STATUTE-

(a) Agreements to establish and operate fund authorized

The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this part (!1) with any public or nonprofit private school of nursing which is located in a State.

(b) Provisions of agreements

Each agreement entered into under this section shall -

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 297h of this title, of (A) the Federal capital contributions paid from allotments under section 297d of this title to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 297b(f) of this title, and (E) any other earnings of the fund;

(3) provide that the fund, except as provided in section 297h of this title, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a fulltime or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing;

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

(c) Regulatory standards applicable to collection of loans

(1) Any standard established by the Secretary by regulation for the collection by schools of nursing of loans made pursuant to loan agreements under this part (!1) shall provide that the failure of any such school to collect such loans shall be measured in accordance with this subsection. With respect to the student loan fund established pursuant to such agreements, this subsection may not be construed to require such schools to reimburse such loan

fund for loans that became uncollectable prior to 1983.

(2) The measurement of a school's failure to collect loans made under this part (!1) shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of such school bears to the matured loans of such school.

(3) For purposes of this subsection -

(A) the term "default" means the failure of a borrower of a loan made under this part (!1) to -

- (i) make an installment payment when due; or
- (ii) comply with any other term of the promissory note for such loan,

except that a loan made under this part (!1) shall not be considered to be in default if the loan is discharged in bankruptcy or if the school reasonably concludes from written contacts with the borrower that the borrower intends to repay the loan;

(B) the term "defaulted principal amount outstanding" means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or cancelled) on loans -

- (i) repayable monthly and in default for at least 120 days; and
- (ii) repayable less frequently than monthly and in default for at least 180 days;

(C) the term "grace period" means the period of nine months beginning on the date on which the borrower ceases to pursue a full-time or half-time course of study at a school of nursing; and

(D) the term "matured loans" means the total principal amount of all loans made by a school of nursing under this part (!1) minus the total principal amount of loans made by such school to students who are -

- (i) enrolled in a full-time or half-time course of study at such school; or
- (ii) in their grace period.

Sec. 297b. Loan provisions

(a) Maximum amount per individual per year; preference to first year students

The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under

this part (11) may not exceed \$2,500 in the case of any student, except that for the final two academic years of the program involved, such total may not exceed \$4,000. The aggregate of the loans for all years from such funds may not exceed \$13,000 in the case of any student. In the granting of such loans, a school shall give preference to licensed practical nurses, to persons with exceptional financial need, and to persons who enter as first-year students after enactment of this subchapter.

(b) Terms and conditions

Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that -

(1) such a loan may be made only to a student who (A) is in need of the amount of the loan to pursue a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, (B) is capable, in the opinion of the school, of maintaining good standing in such course of study, and (C) with respect to any student enrolling in the school after June 30, 1986, is of financial need (as defined in regulations issued by the Secretary);; (!2)

(2) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a full-time or half-time course of study at a school of nursing, excluding from such 10-year period all (A) periods (up to three years) of (i) active duty performed by the borrower as a member of a uniformed service, or (ii) service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.], (B) periods (up to ten years) during which the borrower is pursuing a full-time or half-time course of study at a collegiate school of nursing leading to baccalaureate degree in nursing or an equivalent degree, or to graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist), and (C) such additional periods under the terms of paragraph (8) of this subsection;

(3) in the case of a student who received such a loan before September 29, 1979, an amount up to 85 per centum of any such

loan made before such date (plus interest thereon) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers), at the rate of 15 per centum of the amount of such loan (plus interest) unpaid on the first day of such service for each of the first, second, and third complete year of such service, and 20 per centum of such amount (plus interest) for each complete fourth and fifth year of such service;

(4) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(5) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 5 percent per annum;

(6) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this part (!1) such note or other evidence of a loan may be transferred to such other school; and

(8) pursuant to uniform criteria established by the Secretary, the repayment period established under paragraph (2) for any student borrower who during the repayment period failed to make consecutive payments and who, during the last 12 months of the repayment period, has made at least 12 consecutive payments may be extended for a period not to exceed 10 years.

(c) Cancellation

Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Installments

Any loan for any year by a school from a student loan fund established pursuant to an agreement under this part (!1) shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the school that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan

shall be withheld, as may be appropriate.

(e) Availability to eligible students in need

An agreement under this part (1) with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

(f) Penalty for late payment

Subject to regulations of the Secretary and in accordance with this section, a school shall assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this part for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (b)(2) of this section or cancellation of part or all of the loan under subsection (b)(3) of this section, for any failure to file timely and satisfactory evidence for such entitlement. No such charge may be made if the payment of such installment or the filing of such evidence is made within 60 days after the date on which such installment or filing is due. The amount of any such charge may not exceed an amount equal to 6 percent of the amount of such installment. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) Minimum monthly repayment

A school may provide in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this part payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than \$40 per month.

(h) Loan cancellation

Notwithstanding the amendment made by section 6(b) of the Nurse Training Act of 1971 to this section -

(A) any person who obtained one or more loans from a loan fund established under this part, who before November 18, 1971, became eligible for cancellation of all or part of such loans (including accrued interest) under this section (as in effect on the day before such date), and who on such date was not engaged in a service for which loan cancellation was authorized under this section (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in

effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this part and who on such date was engaged in a service for which cancellation of all or part of such loans (including accrued interest) was authorized under this section (as so in effect), this section (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such service.

Nothing in this subsection shall be construed to prevent any person from entering into an agreement for loan cancellation under subsection (h) (!1) of this section (as amended by section 6(b)(2) of the Nurse Training Act of 1971).

(i) Loan repayment

Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a nursing student, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant -

(1) failed to complete the nursing studies with respect to which such loan was made;

(2) is in exceptionally needy circumstances; and

(3) has not resumed, or cannot reasonably be expected to resume, such nursing studies within two years following the date upon which the applicant terminated the studies with respect to which such loan was made.

(j) Collection by Secretary of loan in default; preconditions and procedures applicable

The Secretary is authorized to attempt to collect any loan which was made under this part,(!1) which is in default, and which was referred to the Secretary by a school of nursing with which the Secretary has an agreement under this part,(!1) on behalf of that school under such terms and conditions as the Secretary may prescribe (including reimbursement from the school's student loan fund for expenses the Secretary may reasonably incur in attempting collection), but only if the school has complied with such requirements as the Secretary may specify by regulation with respect to the collection of loans under this part.(!1) A loan so referred shall be treated as a debt subject to section 5514 of title 5. Amounts collected shall be deposited in the school's student loan fund. Whenever the Secretary desires the institution of a civil action regarding any such loan, the Secretary shall refer the matter to the Attorney General for appropriate action.

(k) Redesignated (j)

(l) Elimination of statute of limitation for loan collections

(1) Purpose

It is the purpose of this subsection to ensure that obligations to repay loans under this section are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Prohibition

Notwithstanding any other provision of Federal or State law, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by a school of nursing that has an agreement with the Secretary pursuant to section 297a of this title that is seeking the repayment of the amount due from a borrower on a loan made under this part (!1) after the default of the borrower on such loan.

Sec. 297d. Allotments and payments of Federal capital contributions

-STATUTE-

(a) Application for allotment; reduction or adjustment of amount requested in application; reallocation; continued availability of funds

(1) The Secretary shall from time to time set dates by which schools of nursing must file applications for Federal capital contributions.

(2)(A) If the total of the amounts requested for any fiscal year in such applications exceeds the total amount appropriated under section 297c (!1) of this title for that fiscal year, the allotment from such total amount to the loan fund of each school of nursing shall be reduced to whichever of the following is the smaller:

(i) The amount requested in its application.

(ii) An amount which bears the same ratio to the total amount appropriated as the number of students estimated by the Secretary to be enrolled on a full-time basis in such school during such fiscal year bears to the estimated total number of students enrolled in all such schools on a full-time basis during such year.

(B) Amounts remaining after allotment under subparagraph (A) shall be reallocated in accordance with clause (ii) of such subparagraph among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund under this paragraph and paragraph (3)

from exceeding the total so requested by it.

(3) Funds which, pursuant to section 297e(c) of this title or pursuant to a loan agreement under section 297a of this title are returned to the Secretary in any fiscal year, shall be available for allotment until expended. Funds described in the preceding sentence shall be allotted among schools of nursing in such manner as the Secretary determines will best carry out this part.(!1)

(b) Installment payment of allotments

Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

(c) Manner of payment

The Federal capital contributions to a loan fund of a school under this part (!1) shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

Sec. 297e. Distribution of assets from loan funds

-STATUTE-

(a) Capital distribution of balance of loan fund

If a school terminates a loan fund established under an agreement pursuant to section 297a(b) of this title, or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund on the date of termination of the fund as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 297a(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 297a(b)(2)(B) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) Payment of principal or interest on loans

If a capital distribution is made under subsection (a) of this section, the school involved shall, after such capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established under section 297a(b) of this title as determined by the Secretary under subsection (a) of this section.

(c) Payment of balance of loan fund

(1) Within 90 days after the termination of any agreement with a school under section 297a of this title or the termination in any other manner of a school's participation in the loan program under

this part,(11) such school shall pay to the Secretary from the balance of the loan fund of such school established under section 297a of this title, an amount which bears the same ratio to the balance in such fund on the date of such termination as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 297a(b)(2)(A) of this title bears to the total amount in such fund on such date derived from such Federal capital contributions and from funds deposited in the fund pursuant to section 297a(b)(2)(B) of this title. The remainder of such balance shall be paid to the school.

(2) A school to which paragraph (1) applies shall pay to the Secretary after the date on which payment is made under such paragraph and not less than quarterly, the same proportionate share of amounts received by the school after the date of termination referred to in paragraph (1) in payment of principal or interest on loans made from the loan fund as was determined for the Secretary under such paragraph.

Sec. 297g. Modification of agreements; compromise, waiver or release

-STATUTE-

The Secretary may agree to modifications of agreements made under this part,(11) and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part.

Sec. 297i. Procedures for appeal of terminations

-STATUTE-

In any case in which the Secretary intends to terminate an agreement with a school of nursing under this part,(11) the Secretary shall provide the school with a written notice specifying such intention and stating that the school may request a formal hearing with respect to such termination. If the school requests such a hearing within 30 days after the receipt of such notice, the Secretary shall provide such school with a hearing conducted by an administrative law judge.

Sec. 297n. Loan repayment and scholarship programs

(a) In general

In the case of any individual -

(1) who has received a baccalaureate or associate degree in nursing (or an equivalent degree), a diploma in nursing, or a graduate degree in nursing;

(2) who obtained (A) one or more loans from a loan fund established under subpart II,(!1) or (B) any other educational loan for nurse training costs; and

(3) who enters into an agreement with the Secretary to serve as nurse for a period of not less than two years at a health care facility with a critical shortage of nurses;

the Secretary shall make payments in accordance with subsection (b) of this section, for and on behalf of that individual, on the principal of and interest on any loan of that individual described in paragraph (2) of this subsection which is outstanding on the date the individual begins the service specified in the agreement described in paragraph (3) of this subsection. After fiscal year 2007, the Secretary may not, pursuant to any agreement entered into under this subsection, assign a nurse to any private entity unless that entity is nonprofit.

(b) Manner of payments

The payments described in subsection (a) of this section shall be made by the Secretary as follows:

(1) Upon completion by the individual for whom the payments are to be made of the first year of the service specified in the agreement entered into with the Secretary under subsection (a) of this section, the Secretary shall pay 30 percent of the principal of, and the interest on each loan of such individual described in subsection (a)(2) of this section which is outstanding on the date he began such practice.

(2) Upon completion by that individual of the second year of such service, the Secretary shall pay another 30 percent of the principal of, and the interest on each such loan.

(3) Upon completion by that individual of a third year of such service, the Secretary shall pay another 25 percent of the principal of, and the interest on each such loan.

(c) Payment by due date

Notwithstanding the requirement of completion of practice specified in subsection (b) of this section, the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then serving as described by subsection (a)(3) of this section, and that

the borrower will continue to so serve for the period required (in the absence of this subsection) to entitle the borrower to have made the payments provided by this subsection for such period; except that not more than 85 percent of the principal of any such loan shall be paid pursuant to this subsection.

(d) Scholarship program

(1) In general

The Secretary shall (for fiscal years 2003 and 2004) and may (for fiscal years thereafter) carry out a program of entering into contracts with eligible individuals under which such individuals agree to serve as nurses for a period of not less than 2 years at a health care facility with a critical shortage of nurses, in consideration of the Federal Government agreeing to provide to the individuals scholarships for attendance at schools of nursing.

(2) Eligible individuals

In this subsection, the term "eligible individual" means an individual who is enrolled or accepted for enrollment as a full-time or part-time student in a school of nursing.

(3) Service requirement

(A) In general

The Secretary may not enter into a contract with an eligible individual under this subsection unless the individual agrees to serve as a nurse at a health care facility with a critical shortage of nurses for a period of full-time service of not less than 2 years, or for a period of part-time service in accordance with subparagraph (B).

(B) Part-time service

An individual may complete the period of service described in subparagraph (A) on a part-time basis if the individual has a written agreement that -

(i) is entered into by the facility and the individual and is approved by the Secretary; and

(ii) provides that the period of obligated service will be extended so that the aggregate amount of service performed will equal the amount of service that would be performed through a period of full-time service of not less than 2 years.

(4) Applicability of certain provisions

The provisions of subpart III of part D of subchapter II of this chapter shall, except as inconsistent with this section, apply to the program established in paragraph (1) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established in such subpart.

(e) Preferences regarding participants

In entering into agreements under subsection (a) or (d) of this section, the Secretary shall give preference to qualified applicants with the greatest financial need.

(f) Condition of agreement

The Secretary may make payments under subsection (a) of this section on behalf of an individual only if the agreement under such subsection provides that section 298b-7(c) of this title is applicable to the individual.

(g) Breach of agreement

(1) In general

In the case of any program under this section under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of nursing (in this section referred to as a "nursing program"), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual -

(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

(ii) is dismissed from the nursing program for disciplinary reasons; or

(iii) voluntarily terminates the nursing program.

(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

(2) Waiver or suspension of liability

In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such subsection if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual

or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

(3) Date certain for recovery

Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

(4) Availability

Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.

(h) Reports

Not later than 18 months after August 1, 2002, and annually thereafter, the Secretary shall prepare and submit to the Congress a report describing the programs carried out under this section, including statements regarding -

(1) the number of enrollees, scholarships, loan repayments, and grant recipients;

(2) the number of graduates;

(3) the amount of scholarship payments and loan repayments made;

(4) which educational institution the recipients attended;

(5) the number and placement location of the scholarship and loan repayment recipients at health care facilities with a critical shortage of nurses;

(6) the default rate and actions required;

(7) the amount of outstanding default funds of both the scholarship and loan repayment programs;

(8) to the extent that it can be determined, the reason for the default;

(9) the demographics of the individuals participating in the scholarship and loan repayment programs;

(10) justification for the allocation of funds between the scholarship and loan repayment programs; and

(11) an evaluation of the overall costs and benefits of the programs.

(i) Funding

(1) Authorization of appropriations

For the purpose of payments under agreements entered into under subsection (a) or (d) of this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 through 2007.

(2) Allocations

Of the amounts appropriated under paragraph (1), the Secretary

may, as determined appropriate by the Secretary, allocate amounts between the program under subsection (a) of this section and the program under subsection (d) of this section.