

CHAPTER 508

REGULATIONS GOVERNING THE VIRGINIA PHYSICIAN LOAN REPAYMENT
PROGRAM.

Article 1.

Definitions and general information.

12 VAC 5-508-10. Definitions. The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Accredited residency" means a graduate medical education program in family practice medicine, general internal medicine, pediatric medicine, obstetrics and gynecology, or psychiatry accredited by the Liaison Committee on Graduate Medical Education.

"Board" or "Board of Health" means the State Board of Health.

"Commercial loans" means loans made by banks, credit unions, savings and loan associations, insurance companies, schools, and either financial or credit institutions which are subject to examination and supervision in their capacity as lenders by an agency of the United States or of the State in which the lender has its principal place of business.

"Commissioner" means the State Health Commissioner.

"Department" means Virginia Department of Health.

"Health Professional Shortage Area (HPSA)" means a geographic area in Virginia designated by the Bureau of Primary Health Care, Health Resources Administration as medically underserved in accordance with the procedures of The Public Health Service Act (42 USC §254e) and implementing regulations (42

CFR 5.2).

“Full-time” means at least forty (40) hours per week for forty-five (45) weeks per year.

“Medically underserved area,” means a geographic area in Virginia designated by the State Board of Health in accordance with the rules and regulations for the identification of medically underserved areas, §32.1-122.5 of the Code of Virginia, or designated as federal health professional shortage area (HPSA) in Virginia, designated by the Bureau of Primary Health Care, Health Resources Administration in accordance with the procedures of The Public Health Service Act (42, USC §254e) and implementing regulations (42 CFR Part 5.2).

“Participant” or “loan repayment participant” means an eligible primary care physician, an eligible psychiatrist, or an eligible medical student who enters into a contract with the Commissioner and participates in the loan repayment program.

"Penalty" means the amount of money equal to twice the amount of all monetary loan repayment paid to the loan repayment participant, less any service obligation completed.

"Practice" means the practice of medicine by a recipient in one of the designated primary care specialties in a specific geographic area determined to be fulfillment of the recipient's loan repayment obligation.

"Primary care" means the specialties of family practice medicine, general internal medicine, pediatric medicine, obstetrics and gynecology, and psychiatry.

“Reasonable educational expenses” means the costs of education, exclusive of

tuition, which are considered to be required by the school's degree program or an eligible program of study, such as fees for room, board, transportation and commuting costs, books, supplies, educational equipment and materials, and clinical travel, which was a part of the estimated student budget of the school in which the participant was enrolled.

"State or loan institution" means any Virginia state agency or local government agency that may require services of a primary care practitioner. This includes, but is not limited to, The Department of Health, The Department of Mental Health, Mental Retardation, and Substance Abuse Services, The Department of Corrections and local Community Service Boards.

12 VAC 5-508-20. Authority for regulations.

§32.1-122.6:1 of the Code of Virginia requires the Board of Health to promulgate regulations for the implementation of the Virginia Physician Loan Repayment Program.

12 VAC 5-508-30. General information and purpose of chapter. These regulations set forth the criteria for eligibility for the Virginia Physician Loan Repayment Program for physicians and medical students; the general terms and conditions applicable to the obligation of each loan repayment recipient to practice in a state or local institution or a medically underserved area of Virginia, as identified by the Board of Health by regulation or a federal health professional shortage area (HPSA) in Virginia, designated by the Bureau of Primary Health Care, Health Resources Administration; and penalties for a recipient's failure to fulfill the practice requirements of the Virginia Physician Loan Repayment Program.

The purpose of the Virginia Physician Loan Repayment Program is to improve the recruitment and retention of primary care practitioners in underserved areas of Virginia and in state and local institutions. A limited number of loan repayment participation contracts will be signed with participants in return for service in a designated Virginia Medically Underserved Area (VMUA) or Health Professional Shortage Area (HPSA), and targeted at practitioners located in non-profit community-based or hospital-based primary care centers. Private-for-profit entities will be eligible depending on the insurance status of the patient population. State and local institutions are eligible. Loan repayment benefits are to be used to repay outstanding qualifying medical educational loans and are based on the availability of funds.

12 VAC 5-508-40. Compliance with the Administrative Process Act.

Chapter 1.4:1 (Section 9-6. 14:1 et seq.) of Title 9 of the Code of Virginia (the Administrative Process Act) governs the promulgation and administration of this chapter and applies to any appeal of a case decision made pursuant to or based upon this chapter.

Article 2.

Administration of the Virginia Physician Loan Repayment Program.

12 VAC 5-508.50. Administration.

The State Health Commissioner, as executive officer of the Board of Health, shall administer this program. Any requests for variance from these regulations shall be considered on an individual basis by the Board in regular session.

12 VAC 5-508-60. Eligible applicants.

Eligible applicants for the Virginia Physician Loan Repayment Program must:

- A. Be a citizen of the United States;
- B. Be an allopathic (M.D.), osteopathic (D.O) physician or medical student pursuing a degree as and M.D., D. O., who has completed post- graduate training in specialties of family practice medicine, general internal medicine, general pediatrics, obstetrics/gynecology, osteopathic general practice or psychiatry. Note that obstetrics/gynecology practitioners must provide prenatal care and obstetric service to be eligible for the Virginia Physician Loan Repayment Program. Practitioners who practice only gynecology are not eligible to participate in the loan repayment program.
- C. Have a valid unrestricted Virginia license to practice medicine, a copy of which shall be furnished to the Virginia Physician Loan Repayment Program;
- D. Be enrolled in the final year of an approved residency program in allopathic medicine, osteopathic medicine, psychiatry, or already in practice;
- E. Have submitted a completed application to participate in the Virginia Physician Loan Repayment Program; and
- F. Have signed and submitted, a written contract agreeing to repay educational loans and to serve for the applicable period of obligated service in an area of defined need.

12 VAC 5-508.70. Application requirement and restrictions.

The applicant must submit a completed application for loan repayment on a form provided by the Virginia Physician Loan Repayment Program between the dates of January 1 and May 1 of the year in which the applicant intends to initiate practice in a medically underserved area. The applicant must agree to serve for not less than two years and up to four years.

12 VAC 5-508.80. Selection criteria.

Applicants shall be competitively reviewed and selected for participation in the Virginia Physician Loan Repayment Program based upon the following criteria:

- A. Commitment to serve. The individual's stated commitment to serve in a designated medically underserved area of Virginia or in a state or local institution.
- B. Virginia residents/graduates. Preferential consideration will be given to individuals who are or have been Virginia residents, graduates of Virginia medical schools (verification will be obtained by the Virginia Physician Loan Repayment Program), or natives of rural and designated medically underserved areas.
- C. Availability for service. Individuals who are immediately eligible and available for service will be given higher consideration.
- D. Length of proposed commitment. Preferential consideration will be given to individuals who commit to longer periods of service.
- E. Selection for participation. All of an individual's professional qualifications and competency to practice in an underserved area will be considered,

including board eligibility or certification in his specialty, professional achievements, and other indicators of competency received from supervisors, program directors, etc.

- F. No other obligations. Individuals shall have no other obligation for health professional service to the federal government or state government, unless such obligation will be completely satisfied prior to the beginning of service under the Virginia Physician Loan Repayment Program.

12 VAC 5-508.90. Loan repayment amount.

The amount that the State agrees to repay will depend upon availability of funds and the applicant's indebtedness, but no amount will exceed the total indebtedness. For each year of participation, the Commonwealth will repay loan amounts according to the following schedule: two years of service will receive up to \$50,000 (minimum requirement); three years of service will receive up to \$85,000; and four years of service will receive up to \$ 120,000.

12 VAC 5-508.100. Loans qualifying for repayment.

Based on the availability of funds, the loan repayment program will pay for the cost of education necessary to obtain a medical degree. The program will pay toward the outstanding principal, interest, and related expense of federal, state, or local government loans (not to include repayment of the Virginia Medical Scholarship Program) and commercial loans obtained by the participant for:

- A. School tuition and required fees incurred by the participant;
- B. Other reasonable educational expenses, including fees, books and laboratory

expenses; and

C. Reasonable living expenses.

12 VAC 5-508.110. Repayment restrictions.

The following financial debts or service obligations are not qualified for repayment by the loan repayment program:

- A. Public Health Service Physician Shortage Area Scholarship,
- B. Public Health and National Health Service Corps Scholarship Training Program,
- C. Indian Health Service Scholarship Program,
- D. Armed Forces Health Professions Scholarship Programs, and
- E. National Health Service Corps Scholarship Program financial damages or loans obtained to repay such damages;
- F. Indian Health Corps Scholarship or loan obtained to repay such damages;
- G. Financial damages or loans obtained to repay damages incurred as a result of breach of contract with any other federal, state, local agency or commercial institution;
- H. Loans for which documentation verifying the educational use of the loans is not available or is not sufficient;
- I. Loans, or part of loans, obtained for educational or personal expenses during the participant's education, which exceed the "reasonable" level, as determined by the school's standard budget in the year the loan was made;

- J. Loans that have been repaid in full; and loans that incur their own obligation for service which has not yet been performed;
- K. Loans from friends and relatives; and
- L. The Virginia Medical Scholarship Program.

The Department of Health will be the final authority in determining qualifying educational loans.

12 VAC 5-508.120. Release of information.

Applicants shall agree to execute a release to allow the Board access to loan records, credit information, and information from lenders necessary to verify eligibility and to determine loan repayments. To facilitate the process, applicants should submit pay-off statements from each lending institution.

Participants who have consolidated qualifying loans with other loans may be asked to submit other documentation, such as copies of original loan applications, to verify the portion of the loan that qualifies for repayment.

The applicant is required to submit all requested loan documentation prior to approval by the Commonwealth.

12 VAC 5-508.130. Service obligation sites.

All sites eligible for loan repayment participation will be located in a designated medically underserved area of the Commonwealth or in a state or local institution. All placements must be to an approved entity providing primary health care within the designated VMUA or HPSA or a state or local institution. Each applicant will be provided with a list of pre-approved areas.

12 VAC 5-508.140. Effective date for start of service.

Applicants become participants in the loan repayment program only when the applicant and the Commissioner or his designee have signed the loan repayment program contract. The effective start date of the obligated service under contract is the date of employment or the date of the Commissioner's signature, which ever is later. If the contracted participant fails to begin or complete the period of professional practice to which he has agreed, the participant will be subject to the financial damages specified in the contract.

12 VAC 5-508.150. Repayment policy

It will be the responsibility of the participant to negotiate with each lending institution for the terms of the educational loan repayments. Each lending institution must certify that the participant's debt is a valid educational loan prior to payment by the loan repayment program. Any penalties associated with early repayment shall be the responsibility of the participant.

12 VAC 5-508.160. Disbursement procedure.

In an effort to assist loan repayment participants in reducing their educational debt with as little interest expense as is possible, the Virginia Physician Loan Repayment Program will disburse the funds in a lump sum payment. A participant will be paid one lump sum payment up to \$50,000 the first year for the minimum two-year commitment within forty-five days of execution of the contract. If a participant commits to a service obligation greater than two years, he will be paid a lump sum payment up to \$35,000 the following year depending on availability of funds, approximately forty-five days after the beginning

of the subsequent year. The maximum number of years a participant can commit to is four years.

12 VAC 5-508.170. Compensation during service.

Each participant is responsible for negotiating his own compensation package directly with the site where he will provide primary health care services.

12 VAC 5-508.180. Tax implications.

Loan repayments are income, and therefore, are taxable by the United States Internal Revenue Service. It will be the responsibility of each participant to report the loan repayment award when preparing his tax return. Program participants should seek the advice of a qualified tax advisor regarding this matter. The Board will provide a form 1099 to applicants awarded loan repayment.

12 VAC 5-508.190. Monitoring during service.

Monitoring of the service by participants shall be conducted on an on-going basis by Department staff. Service verification forms will be submitted by the participant to the Department semi-annually (every six months), countersigned by a representative of the service site, e.g. the Medical Director, Human Resource Coordinator, Chief Executive Officer, etc., certifying continuous full-time service by participants.

The participant is required to maintain practice records in a manner that will allow the Department to readily determine if the individual has complied with or is complying with the terms and conditions of the participation agreement. Department staff reserves the right to conduct a regular survey to assure that all participants are maintaining practices that accept Medicare and Medicaid assignment and do not discriminate based on the

patient's ability to pay.

12 VAC 5-508.200. Change of practice site.

Should any participant find that he is unable to fulfill the service commitment at the loan repayment site to which he has committed to practice, he may be placed in breach of contract status or he may be expected to continue service at another approved loan repayment site within six months from departure from the previous site. This site will be selected in consultation with the participant, and with the approval of the Commissioner.

In the event of a dispute between the participant and the site, every effort will be made to resolve the dispute before reassignment will be permitted.

12 VAC 5-508.210. Terms of service.

The following are the terms of service for the loan repayment program:

- A. The participant shall contract to provide a minimum of two years with a maximum of up to four years in whole year increments. Additional service beyond the two year commitment is dependent upon the availability of state funds for the Virginia Physician Loan Repayment Program. An existing contract may be renewed for one year at a time up to a maximum of four years, as funds become available;
- B. The participant shall begin service within twelve months from entering into the contract;
- C. The participant shall provide full time service of at least 40 hours per week for 45 weeks per year, to allow for continuing education, holidays, and vacation. The minimum 40-hour week must not be performed in less than four

days per week, with no more than 12 hours of work performed in any 24 hour period. Time spent in an "on-call" status will not count toward the 40 hour week. Any exceptions to the "on-call" provisions of this policy must be approved in advance by the Commissioner prior to placement.

- D. No period of internship, residency, or other advanced clinical training may count toward satisfying a period of obligated service under this loan repayment program;

12 VAC 5-508.220. Conditions of practice.

- A. The participant must agree to provide health service without discrimination regardless of a patient's ability to pay. Payments from Medicare and Medicaid or both must be accepted by the designated service site.
- B. The participant must agree to comply with all policies, rules, and regulations of the designated service site.

Article 3.

Contract

12 VAC 5-508.230. Loan repayment contract.

Prior to the becoming a participant in the Virginia Physician Loan Repayment Program, the applicant shall enter into a contract with the Commissioner agreeing to the terms and conditions upon which the loan repayment is granted. The contract shall:

- A. Include the terms and conditions to carry out the purposes and intent of this program;
- B. Provide that the participant will be required to provide primary health care services

at an approved site in a designated medically underserved area or in a state or local institution for a minimum period of two years. A four year commitment is required in order to be eligible for the maximum amount of loan repayment, depending upon availability of funds. All loan repayment program participation will be contingent upon continuous, full-time practice in a medically underserved area of Virginia or in a state or local institution;

- C. Provide for repayment of all amounts paid, plus interest, and penalties, less any service time, as set out in the contract in the event of breach of the contract;
- D. Be signed by the applicant; and
- E. Be signed by the Commissioner or his designee.

12 VAC 5-508.240. Breach of contract.

The following may constitute breach of contract:

- A. Participant's failure to begin or complete his term of obligated service under the terms and conditions of the Virginia Physician Loan Repayment contract, regardless of the length of the agreed period of obligated service;
- B. Participant's falsification or misrepresentation of information or misrepresentation of information on the Program application or verification forms or other required document;
- C. Participant's employment being terminated for good cause, as determined by the employer and confirmed by the Department If employment is terminated for reasons beyond the participant's control (e.g. closure of site), the participant must transfer to another approved site in a designated medically underserved area or in

a state or local institution within six months of termination. Failure of participant to accept such a transfer site shall be deemed to be a breach of the contract; and

- D. Participant's failure to provide all reasonable, usual and customary full-time health care service for at least forty-five (45) weeks per year.

12 VAC 5-508.250. Collection procedure.

If any person who has received funds and has been declared in breach of contract under this program at anytime becomes an employee of the Commonwealth or any of its agencies, he shall be deemed to have agreed, as a condition of employment, to voluntary or involuntary withholding his wages to repay the default damages. Failure of a participant to make any repayment of the penalty when it is due shall be cause for the Commissioner to refer the debt to the Attorney General of the Commonwealth of Virginia for collection. The recipient shall be responsible for any costs of collection as may be provided in Virginia law.

12 VAC 5-508.260. Waiver and suspension or both.

Participants have the obligation to complete full-time continuous service for the period of their entire commitment. Under unusual circumstances (e.g. illness), a participant may request that the Commissioner agree to a postponement of the service obligation. This postponement, if granted, will not relieve the participant of the responsibility to complete the remaining portion of the obligation. Such postponement will not be permitted as a matter of course, but may be allowed in the most compelling cases.

Waiver of the default provisions may be considered if the participant suffers from a physical or mental disability which occurs after the participant's commitment and results

in the total and permanent inability of the participant to perform the obligated service (as determined by the Commissioner), or if the participant dies during the period of obligated service.

12 VAC 5-508.270. Cash Reimbursement and Penalty.

Regardless of the length of the agreed period of obligated service, participants who serve less than the two-year minimum (but at least one year) are liable to pay monetary damages to the Commonwealth of Virginia as stated in the contract. The default penalty will require the participant to repay twice the total amount of the award received. So, that way if a recipient owes \$50,000, he would have to repay at total of \$100,000.

Article 4.

RECORDS AND REPORTING

12 VAC 5-508.280. Reporting Requirements.

Reporting requirements of the loan repayment participant are as follows:

- A. Each participant shall at any time provide information as required by the Commissioner to verify compliance with the practice requirements of the Virginia Physician Loan Repayment Program, e.g. verification of employment, see 12 VAC 5-508.190.
- B. Each participant shall promptly notify the Commissioner, in writing, within 30 days before any of the following events occur:
 1. Participant changes name;
 2. Participant changes address;
 3. Participant changes practice site;

4. Participant no longer intends to fulfill service obligation as a primary care health care provider in a designated medically underserved area; or
5. Participant ceases to practice as a physician.