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## Chapter Comm 122

### PHYSICIAN AND DENTIST LOAN ASSISTANCE PROGRAM

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**Note:** Chapter Comm 122 as it existed on June 30, 1998 was repealed and new chapter Comm 122 was created effective July 1, 1998.

**Comm 122.01 Purpose.** The purpose of this chapter is to establish provisions necessary for the administration of those aspects of the physician and dentist 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. 36.60 (1) (ag), Stats.
- (2) The establishment of priorities among eligible applicants.
- (3) The procedures under which physicians and dentists may apply for assistance under this chapter and the procedures under which the department may make determinations in regard to physician and dentist applications.
- (4) The penalties for breach of an agreement, and circumstances under which those penalties may be waived.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. (intro.) and (3), Register June 2002 No. 558, eff. 7-1-02; **correction in (1) made under s. 13.92 (4) (b) 7., Stats.**

**Comm 122.02 Definitions.** In this chapter:

- (1) "Dental health shortage area" has the meaning contained in s. 36.60 (1) (ad), Stats.
- (2) "Department" means the department of commerce.
- (3) "Educational loan" means a health education assistance loan, a plus loan, a national direct student loan, a stafford loan, a health professions students 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 or dentist from a public or private lending institution for education in an accredited school of medicine, an accredited school of dentistry, or for post graduate medical or dental training.
- (4) "Eligible practice area" has the meaning set forth in s. 36.60 (1) (ag), Stats.
- (5) "Mental health shortage area" has the meaning contained in s. 36.60 (1) (ap), Stats.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: renum. (1) to (4) to be (2) to (5) and am. (3), cr. (1), Register June 2002 No. 558, eff. 7-1-02; **corrections in (1), (4) and (5) made under s. 13.92 (4) (b) 7., 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 (5).

(2) In addition to conforming to s. Comm 122.02 (5), 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. The department may waive this requirement on a year-to-year basis upon a showing in writing by the physician that

additional psychiatric services are not required by the county in the mental health shortage area, that the s. 51.42, Stats., board is not able to provide for such services at their reasonable and customary rate, or for other reasons approved by the department.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. Register June 2002 No. 558, eff. 7-1-02.

**Comm 122.035 Dental health shortage area. (1)** The department shall identify as a dental health shortage area any geographic area that conforms to the definition in s. Comm 122.02 (1).

(2) In addition to conforming to s. Comm 122.02 (1), the dentist shall agree to the following:

(a) In year 1 of the dentist's agreement with the department, the dentist shall provide dental services to at least 50 unduplicated medical assistance or badger care recipients, not to fall below a minimum of \$8,000 in claims paid.

(b) In year 2 of the dentist's agreement with the department, the dentist shall provide dental services to at least 70 unduplicated medical assistance or badger care recipients, not to fall below a minimum of \$11,000 in claims paid.

(c) In year 3 of the dentist's agreement with the department, the dentist shall provide dental services to at least 90 unduplicated medical assistance or badger care recipients, not to fall below a minimum of \$15,000 in claims paid.

(3) In this section, "unduplicated" means that a recipient may only be counted once for the year regardless of the number of visits during the year.

(4) The department may waive the requirements of sub. (2) on a case-by-case and year-to-year basis upon an administrative review that shows the dentist made a significant effort to achieve the targets contained in sub. (2) and that the dentist has credible plans, as determined by the department, to meet the following year's targets, if applicable.

**History:** CR 01-157: cr. Register June 2002 No. 558, eff. 7-1-02.

**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. 20.285 (1) (jc) and (ks), Stats., the department shall establish priorities among eligible applicants based on the following considerations:

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

(2) **PHYSICIAN AND DENTIST RETENTION.** The likelihood of long term retention of the physician or dentist.

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

(4) **FINANCIAL SUPPORT FOR PHYSICIAN OR DENTIST RECRUITMENT AND RETENTION.** The extent of local financial support pro-

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vided to recruit or retain the physician or dentist for the eligible practice area.

(5) **LENGTH OF SERVICE.** The degree to which the physician or dentist 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 and dentists 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.

(9) **PROVISION OF MEDICAL ASSISTANCE AND BADGER CARE SERVICES.** If already in practice, the degree to which a dentist provides medical assistance and badger care services in the dental practice.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. (intro.), (1) to (5) and (7), cr. (9), Register June 2002 No. 558, eff. 7-1-02; **corrections in (intro.) made under s. 13.92 (4) (b) 7., Stats.**

**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 or dental 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. 36.60, Stats., and this chapter.

(2) The department shall provide application materials.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; am. (1) (a), Register June 2002 No. 558, eff. 7-1-02; **correction in (1) (d) made under s. 13.92 (4) (b) 7., Stats.**

**Comm 122.06 Breach of agreement.** (1) The following actions, if taken by a physician or dentist who has entered into an agreement with the department under the state physician and dentist loan repayment program for repayment of loans entirely from state funds, after July 1, 1998, 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.

(g) Failing to meet the additional requirements outlined for psychiatrists in s. Comm 122.03 and dentists in s. Comm 122.035.

(2) The following actions, if taken by a physician or dentist who has entered into an agreement with the department under the expanded loan assistance program under s. 36.60 (9), Stats., 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 or dentist's services. Sliding fee scales may vary from clinic to clinic but, at a minimum, shall address persons with incomes below 200% of the federal poverty level.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. (1) (intro.), (2) (intro.) and (h), cr. (1) (g), Register June 2002 No. 558, eff. 7-1-02; **correction in (2) (intro.) made under s. 13.92 (4) (b) 7., Stats.**

**Comm 122.07 Penalties for breach of agreement.**

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

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

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. Register June 2002 No. 558, eff. 7-1-02.

**Comm 122.08 Waiver of penalties.** The department may waive any penalty for breach of agreement if the physician or dentist is unable to serve or repay due to a permanent physical or mental impairment that prevents the physician or dentist from working in the physician's or dentist's profession. The physician or dentist 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 or dentist will be unable to continue working in the physician's or dentist's profession.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. Register June 2002 No. 558, eff. 7-1-02.

**Comm 122.09 Suspension.** A physician's or dentist'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 7 weeks allotted each year, or termination of employment that requires the physician or dentist to seek employment in another eligible practice area.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. Register June 2002 No. 558, eff. 7-1-02.