

## SENATE, No. 1260

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1260) of [Richard T. Moore](#), [Bruce E. Tarr](#), [William Smitty Pignatelli](#), [Paul J. Donato](#) and other members of the General Court for legislation to promote safe patient care and support the nursing profession. [Public Health](#)

### The Commonwealth of Massachusetts



In the Year Two Thousand and Five.

#### AN ACT TO PROMOTE SAFE PATIENT CARE AND SUPPORT THE NURSING PROFESSION

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

##### SECTION 1.

Analysis of Workforce and Faculty Resources

(a) Review of Workforce Initiatives

(1) The Secretary for Administration and Finance is hereby authorized and directed to make an investigation and study of all state agencies, or quasi-state agencies, to determine the efficacy of existing programs related to workforce development and report back to the legislature by April 15, 2006 with recommendations for the development of new or redesigned state programs to create a pathway for an enhanced health care workforce.

(2) Said investigation and study shall include, but not be limited to, identifying ways to increase the number and diversity of people choosing health care occupations, increase retention rates among Massachusetts current health care workers, and recommending measures to coordinate health care worker shortage solutions in the state.

(b) Review of Nurse Faculty Resources

(1) The Board of Higher Education, in collaboration with the Department of Labor and Workforce Development, the Board of Registration in Nursing, and the Massachusetts Center for Nursing, Inc., is hereby authorized and directed to make an investigation and study of the nurse faculty shortage in the Commonwealth and report back to the legislature by April 15, 2006 with recommendations to enhance the nurse faculty pipeline within the state.

(2) Said investigation and study shall include, but not be limited to, the collection and analysis of: school capacity data including numbers of doctoral and masters prepared faculty; budgeted and vacant positions; projections on intentions to retire; data on the numbers of students who have been turned away or are on waiting lists due to shortage of budgeted faculty positions; vacant faculty positions; the capability of both undergraduate and graduate schools to develop nursing programs based on the number of qualified undergraduate and/or graduate students interested in nursing, as well as the number of available faculty to develop a nursing program, or lack of clinical placement sites; the supply of masters and doctoral prepared nurses in the state who might be available to move into education positions; and, the types and components of partnerships between

schools and healthcare facilities focused on sharing of resources to enhance nursing education, research or leadership development.

(3) Said investigation and analysis shall be conducted on a statewide basis and include both publicly funded and private schools to provide comprehensive data on the current and future extent of the faculty shortage.

## SECTION 2. Promoting Health Care Professions

The Executive Office of Economic Development, in collaboration with the State Board of Education, the Board of Higher Education, and the Massachusetts Hospital Association, is hereby authorized and directed to develop a comprehensive statewide plan to promote healthcare professions to the general public. Said plan shall include specific recommendations that various state agencies may act upon to further the goals of enhancing public interest in health care professions, including but not limited to school age children and adults seeking a change in career, and increasing the supply of health care workforce . The Department shall complete said plan and file a copy with the House and Senate clerks no later than April 15, 2006.

## SECTION 3. Enhancing the Availability of Nursing Workforce Data

Notwithstanding any general or special law to the contrary, the Executive Office of Health and Human Services and all agencies, departments and boards within said secretariat, the Department of Labor and Workforce Development, the Board of Higher Education and any other state agency, board or department that collects data, conducts surveys or gathers information related to the practice of nursing, the supply of nursing

workforce, the supply of nursing faculty or other nursing workforce issues shall regularly submit said data and information to the Massachusetts Center for Nursing, Inc.

#### SECTION 4. Establishing the Clara Barton Nursing Excellence Programs

(a) To provide for certain unanticipated obligations of the commonwealth, to provide for certain other activities and projects and to meet certain requirements of law, the sums set forth in subsection (b) are hereby appropriated from the General Fund for the several purposes and subject to the conditions specified therein, and subject to the provisions of law regulating the disbursement of public funds; provided, that notwithstanding the provisions of any general or special law to the contrary, the appropriations made in section 3 shall expire on June 30, 2006.

(b) Treasurer and Receiver General

xxxx-xxxx For the Clara Barton Nursing Excellence Trust Fund established under section 64 of chapter 10 of the General Laws ..... \$30,000,000

(c) Chapter 10 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following section:

Section 64. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Clara Barton Nursing Excellence Trust Fund. Said fund shall consist of all revenues from public and private sources as appropriations, gifts, grants, donations, and from the federal government as reimbursements, grants-in-aid or other receipts to further the purposes of said fund in accordance with the provisions of sections 19F through 19J, inclusive, of chapter 15A, and any interest or investment

earnings on such revenues. All revenues credited to said fund under this section shall remain in said fund and shall be expended, without further appropriation, for applications pursuant to sections 19F through 19J, inclusive, of chapter 15A. The state treasurer shall deposit and invest monies in said fund in accordance with the provisions of sections 34, 34A and 38 of chapter 29 in such a manner as to secure the highest rate of return consistent with the safety of the fund. Said fund shall be expended only for the purposes stated in said sections 19F through 19J, inclusive, of said chapter 15A, at the direction of the chancellor of the system of public higher education, hereinafter referred to as the chancellor. On February 1 of each year, the state treasurer shall notify the chancellor of any projected interest and investment earnings available for expenditure from said fund for each fiscal year.

(d) Chapter 15A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 19E, the following sections:

Section 19F. The board of higher education is authorized and directed to establish a student loan repayment program and a faculty position payment program, to be known as the Clara Barton Nursing Loan Repayment Program, for the purpose of encouraging outstanding students to work in the profession of nursing or for existing nurses or nurse student graduates to teach nursing within the commonwealth by providing financial assistance for the repayment of qualified education loans or by providing compensation to health care facilities to cover nurse scheduled work time spent teaching, as further defined herein. The board shall adopt guidelines governing the implementation of the program, which shall include, but need not be limited to, the following:

(1) eligibility for the program shall be limited to persons who have graduated in the top twenty-five percent of their practical or diploma nursing program, undergraduate, or graduate class, as certified by the college, university, or school of nursing attended by such applicant, or who are otherwise qualified;

(2) eligibility shall be limited to persons licensed to practice nursing in the commonwealth or entering the nursing profession after September first, two thousand and four, or to persons entering the teaching of nursing profession at a college, university, or school of nursing within the commonwealth after such date;

(3) the commonwealth shall repay a participants' student loan at a rate not to exceed two hundred dollars per month for a period not to exceed forty-eight months. Participants who work less than full time shall receive loan repayment amounts in direct proportion to the percentage of full time worked;

(4) repayment shall be made to the participant annually upon the presentation by the participant of satisfactory evidence of payments under the loan;

(5) payments by the commonwealth shall cover only loan payments made by the participants in the months during which the participant is employed as a nurse in, but not limited to, acute care hospitals, long term care/chronic disease hospitals, acute inpatient rehabilitation hospitals, public health hospitals, psychiatric and mental health clinics or hospitals, community or neighborhood health centers, rehabilitation centers, nursing homes, or as a home health, school or public health nurse in the commonwealth, or is employed to teach nursing at a college, university, or school of nursing in the commonwealth. Payments by the commonwealth shall not commence until participants

have been employed as nurses in the commonwealth, or teachers of nursing at a college, university, or school of nursing in the commonwealth, for a period of one year.

Participants must be employed as nurses in the commonwealth, or as teachers of nursing at a college, university or school of nursing in the commonwealth, for a minimum period of four years during the loan repayment period, or reimburse the commonwealth for the expense incurred during the repayment period.

(6) in the case of those employed as nurses, the board may limit the program to those who work in communities designated by the department of public health, in consultation with the federal department of health and human services and the center for health professions at Worcester State College, as underserved communities;

(7) the program shall set forth an affirmative action policy and specific annual affirmative action goals. The board shall annually publish a report detailing its efforts to publicize the loan repayment program in order to advance the goals of this affirmative action policy and its success in meeting those goals.

The term "qualified education loan" shall mean any indebtedness including interest on such indebtedness incurred to pay tuition or other direct expenses incurred in connection with the pursuit of a practical or diploma nursing program, an associate's, baccalaureate, or graduate degree by an applicant, but shall be limited to any loan which was or is administered by the financial aid office of a practical or diploma nursing program, two year or four year college, university, or school of nursing at which the applicant was enrolled as a practical or diploma nursing school student, or as an undergraduate or

graduate student, and which loan has been secured through a state or federal student loan program, or which was or is administered by a commercial or institutional lender.

Section 19G. The board of higher education is authorized and directed to establish an expert nursing corps program, to be known as the Clara Barton Expert Nursing Corps Program, for the purpose of building a group of recognized nurses of high achievement in the profession who shall serve to mentor incoming or novice nurses and to further the goals of the nursing profession. The board shall adopt guidelines governing the implementation of the program. Such guidelines shall include, but need not be limited to, the following provisions:

(1) the board may select expert nurses who achieve such status by obtaining specialty, modular, or advanced practice certification from the American Nurses Credentialing Center, who remain in good standing with the board of registration in nursing, who are current on their continuing education units, and who agree to mentor incoming or novice nurses. The board may develop and include alternatives to such American Nurses Credentialing Center program provided such alternatives maintain equivalent or higher standards of excellence in the practice of nursing;

(2) the board may provide expert nurses with partial or full reimbursement for the assessment costs of said American Nurses Credentialing Center certification. The board shall provide expert nurses with ongoing salary bonuses. Such ongoing salary bonuses shall be limited to \$5,000 per year not to exceed ten years; provided, that such expert nurses continue to remain in good standing with the board of registration in nursing and employed in nursing in the commonwealth, and continue to mentor incoming or novice



nurses. The board may authorize a nominal payment, in addition to the bonus to the expert nurse, to the health care facility, school district, local health agency, home health agency, or nursing home in Massachusetts of such expert nurse to facilitate time for the expert nurse to engage in mentoring activity; provided further, that said health care facility, school district, local health agency, home health agency, or nursing home in Massachusetts shall continue the expert nurse's salary at a level irrespective of the expert nurse's salary bonus;

(3) the board shall set forth an outreach plan to attract underrepresented populations and nurse specialists in the nursing profession in areas which are designated by the department of public health, in consultation with the federal department of health and human services and the Center for Health Professions at Worcester State College, as underserved communities.

Section 19H. The board of higher education shall make available grants to institutions of higher education and health care institutions in the commonwealth for the purpose of fostering partnerships between higher education institutions and clinical agencies that promote the recruitment and retention of nurses. Such grants may also be made available to such institutions for the purpose of establishing and maintaining nurse mentoring or nursing internship programs. The board shall adopt guidelines governing the implementation of this section.

Section 19I. The board of higher education is authorized and directed to establish a scholarship program, to be known as the Clara Barton Scholarship Program, to provide students in approved Massachusetts' colleges, universities and schools of nursing with

scholarships for tuition and fees for the purpose of encouraging outstanding Massachusetts' students, to work as nurses in, but not limited to, acute care hospitals, psychiatric and mental health clinics or hospitals, community or neighborhood health centers, rehabilitation centers, nursing homes, or as a home health, school or public health nurse in the commonwealth, or to teach nursing in colleges, universities, or schools of nursing in the commonwealth. The board shall adopt guidelines governing the implementation of the program.

Colleges, universities, and schools of nursing in the commonwealth may administer the Clara Barton Scholarship Program and select recipients, in accordance with guidelines adopted by the board. Scholarships may be made available to full or part time matriculating students in courses of study leading to a degree in nursing or the teaching of nursing. Recipients shall be residents of the commonwealth and outstanding prospects based on objective measures such as leadership skills, clinical knowledge, class rank, test scores, grade point average, income need and such other criteria as the board may determine. In any given year, the board may target awards to students from geographic and nurse specialty areas in the commonwealth determined by the department of public health, in consultation with the federal department of health and human services, and the Center for Health Professions at Worcester State College, to be areas experiencing an acute shortage of nurses. Scholarship recipients at any public or private institution of higher education in the commonwealth shall receive no more than a \$3,500 scholarship for each academic semester that the recipient remains enrolled at such institution and remains in good standing. The names of recipients of such scholarships shall remain confidential, unless the recipient waives such confidentiality in writing.

The board may also provide a scholarship recipient with a housing voucher, in such form and manner as the board may determine, which shall be equal to not more than two hundred dollars per month, that may be utilized by the recipient to assist in paying housing costs, including rent or mortgage payments, while such recipient is enrolled in good standing in the college, university, school of nursing.

The board, in coordination with the board of education and Massachusetts' colleges, universities and schools of nursing, shall aggressively market the existence of the program to high school students and to non-traditional students to encourage outstanding candidates to apply to nursing or the teaching of nursing programs in institutions of higher education in the commonwealth. Such marketing shall focus on candidates who would otherwise not consider a career in nursing or the teaching of nursing. The board shall set forth an outreach plan to attract underrepresented populations to the nursing profession.

Recipients must be employed as a nurse in the commonwealth, or teacher of nursing at a college, university, or school of nursing in the commonwealth, for a minimum period of two years following graduation. Recipients who participate in the program but do not complete their college education within seven years of entering college, or who fail to complete their two year nursing commitment within seven years following graduation from college, or whose license to practice in Massachusetts is not maintained in good standing, or those who fail to complete their two year teaching commitment within seven years following graduation from college or from a graduate school, if such is required for teaching nursing at a college, university or school of nursing, shall be obligated to repay

the commonwealth any tuition, fees, and housing voucher payments advanced to them, with interest set by the board.

Section 19J. The board of higher education is authorized and directed to develop a program to provide matching grants to any hospital that commits resources or personnel to nurse education programs. Such program shall provide a dollar-for-dollar match for any funds committed by a hospital to pay for nurse faculty positions in publicly funded schools of nursing, including the costs of providing hospital personnel loaned to said schools of nursing.

(e) Notwithstanding the provisions of any general or special law to the contrary, any state or community college, or the University of Massachusetts may enter into employment contracts for a minimum period of five years with faculty members who teach nursing at such institutions, unless both parties agree to a shorter term of employment.

(f) The board of higher education shall establish an advisory committee consisting of seven members whose membership shall be comprised of professionals representing the nursing profession. At least one half of the membership of the committee shall be nursing educators from higher education institutions and the remaining members shall be nurses in practice. The advisory committee shall advise the board as to the practice of nursing and how to implement the provisions of this act in a manner that would best benefit the profession of nursing and fulfill the goals of recruiting and retaining people to the profession of nursing.

SECTION 5: Addressing the Nursing Faculty Shortage in Public Institutes of Higher Education

a) Section 616 of chapter 26 of the Acts of 2003 is hereby amended in subsection (k) by inserting at the end thereof the following:-

For the purpose of this section in order to preserve the public's health and safety any nursing faculty positions made vacant by the retirement of any employee receiving benefits in accordance with this act shall be deemed a position of critical and essential nature and shall be included on the schedule provided by the board of higher education to the house and senate committee on ways and means as set forth in this section.

b) Said Section 616 of Chapter 26 of the Acts of 2003 is hereby further amended in subsection (m) by inserting at the end thereof the following:

For the purpose of this section in order to preserve the public's health and safety any nursing faculty positions made vacant by the retirement of any employee receiving benefits in accordance with this act shall be deemed a position of critical and essential nature and shall be included on the schedule provided by the board of higher education to the House and Senate Committee on Ways and Means as set forth in this section.

SECTION 6. Accountability of Nurse Staffing for Patient Care

Chapter 111 of the general laws, as appearing in the 2004 official edition, is hereby amended by adding after Section 56 the following new section:

Section 56A

a) Definitions: For the purposes of this section the following words shall have the following meanings:

“Hospital”, a hospital subject to this chapter limited to a general acute care hospital, a public hospital owned by the Commonwealth, a chronic disease hospital, an acute inpatient rehabilitation hospital, and the teaching hospital of the University of Massachusetts Medical School.

“Nurse Staffing Plan”, a written plan that addresses patient nursing needs by identifying the appropriate number and mix of staff for each hospital, specific to each shift in the hospital inpatient units, special care units, and emergency departments by day of week.

b) Hospitals shall develop and implement a written nurse staffing plan based on the following requirements:

- (1) Addresses patient nursing needs in each hospital and that covers all inpatient units, special care units, and the emergency department in said hospital;
- (2) Sets forth a mechanism to obtain input from direct care givers, including nurses and other members of the patient care team, in determining the nurse staffing plan;
- (3) Identifies relevant factors in each hospital including, but not limited to, the number of patients in a unit; intensity of care required; skill and experience of care givers including registered nurses, licensed practical nurses, ancillary personnel, and other members of the patient care team consistent with the level of authority and responsibility delegated under state licensure; admission, discharge, and transfers; geography of a unit; and the availability of technological support; and

(4) Addresses appropriate measures and actions to be taken by the hospital when there is significant variation from the plan.

c) The hospital shall include in the nurse staffing plan a description of the staffing effectiveness process used to monitor and improve nursing care pursuant to the applicable Joint Commission on Accreditation of Healthcare Organizations standards.

d) The hospital shall post a copy of the nurse staffing plan in a manner that is readily available to hospital staff and the general public.

e) Nurse staffing plans shall be reviewed and updated by the hospital when necessary to reflect any significant changes in services.

f) The plan shall be approved by the hospital Governing Board prior to filing with the Department.

g) Hospitals shall file the nurse staffing plan with the department at the start of the hospital's fiscal year. The hospital shall include with said plan an evaluation of actual staffing compared to the plan filed with the department for the preceding year that includes a description of the appropriate measures and actions taken by said hospital should there have been significant variations in the plan so filed.

h) The department may issue a penalty to a hospital that fails to submit a plan pursuant to subsection (g), said penalty may be established by the department through regulations.

Any monetary penalties issued under this subsection shall be collected and distributed to the Betsy Lehman Center, created by Section 7 of chapter 177 of the Acts of 2001. Upon

notice by the department that a plan has not been filed, a hospital shall have 30 days to file said plan prior to incurring any penalties under this subsection.

i) The department may conduct random audits of a hospital's nurse staffing plan to ensure that said plan conforms to the provisions of this section. The department shall further afford the hospital at least 30 days to develop a corrective action plan for the nurse staffing plan prior to any action taken by the department.

j) The department shall promulgate regulations consistent with the provisions of this section.

#### SECTION 7: Evaluation of Patient Care Using Nurse-Sensitive Performance Measures

Hospitals shall include in their quality improvement programs a process to collect, monitor, and evaluate patient care through the statewide use of three evidence-based nurse-sensitive performance measures to be selected by the Betsy Lehman Center, herein called "The Center". The Center, in consultation with the Massachusetts Hospital Association, shall select the three evidence-based nurse-sensitive performance measures from the nationally recognized measures endorsed by the National Quality Forum; one of which shall be nursing care hours per patient day as specified in said Forum's performance measures. The Massachusetts Department of Public Health shall study and provide a methodology for the Betsy Lehman Center to adjust said nursing care hours per patient day for differences in patient characteristics. The Center shall develop a uniform format for hospitals to annually report on the selected performance measures to said Center. The Center shall report to the general public both hospital-specific performance



measure data as well as aggregated industry trends and best practices developed from said reports.

#### SECTION 8. Commission to Review the Analysis of the Institute of Medicine Findings

There shall be a special commission within the Executive Office of Health and Human Services for the purpose of studying the Institute of Medicine's report "Keeping Patients Safe: Transforming the Work Environment of Nurses" (issued on November 4, 2003).

The commission shall consist of the Chairs of the Ways and Means Committees, Commissioner of the Department of Public Health and a representative from the Massachusetts Hospital Association, the Massachusetts Organization of Nurse Executives, the Massachusetts Nurses Association, the Massachusetts Medical Society, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Association of Health Plans, the Associated Industries of Massachusetts, the Massachusetts League of Community Health Centers, three Teaching and three Community Hospitals, a Chronic Disease hospital, an Inpatient Rehabilitation hospital, the Massachusetts Coalition for the Prevention of Medical Errors, the Massachusetts Association of Colleges of Nursing, Community Colleges, other nursing organizations, nursing schools, medical schools, and others that the Commission Chairs deem appropriate for this commission. The commission shall be jointly chaired by the Chairs of the Joint Committee on Health Care. No action of the commission shall be considered official unless approved by a majority of the members of the commission. The commission shall study the key findings and recommendations from the report, identify concerns, barriers, and alternatives to implementation of the reports recommendations. The commission shall also develop recommendations for Massachusetts taking into consideration existing state

regulations, workforce shortages, and the current financing of hospital care in Massachusetts. The commission shall file its final report and any recommendations with the clerks of the Senate and House of Representatives, with the House and Senate Committees on Ways and Means, the House and Senate Chairs of the Joint Committee on Health Care, the Betsy Lehman Center and with the Governor within 6 months following the effective date of this Act.

SECTION 9: Application of this Act

- (a) The provision of Sections 6 and 7 of this Act shall become effective on April 15, 2006.