

NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT

[Public Law 100–579, Approved October 31, 1988, 102 Stat. 2916,
42 U.S.C. 11701 et seq.]

[As Amended Through P.L. 114–95, Enacted December 10, 2015]

【Currency: This publication is a compilation of the text of Public Law 100–579. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To improve the health status of Native Hawaiians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [42 U.S.C. 11701 note] SHORT TITLE.

This Act may be cited as the “Native Hawaiian Health Care Improvement Act”.

SEC. 2. [42 U.S.C. 11701] FINDINGS.

The Congress finds that:

(1) Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first nonindigenous people in 1778.

(2) The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

(3) The constitution and statutes of the State of Hawaii:

(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language.

(4) At the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion.

(5) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

(6) Throughout the 19th century and until 1893, the United States: (A) recognized the independence of the Hawaiian Nation; (B) extended full and complete diplomatic recognition to the Hawaiian Government; and (C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875 and 1887.

(7) In the year 1893, the United States Minister assigned to the sovereign and independent Kingdom of Hawaii, John L. Stevens, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii.

(8) In pursuance of that conspiracy, the United States Minister and the naval representative of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawaii and the United States Minister thereupon extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawaii or the lawful Government of Hawaii in violation of treaties between the two nations and of international law.

(9) In a message to Congress on December 18, 1893, then President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown, and the President concluded that a “substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair”.

(10) Queen Lili'uokalani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian nation, but this petition was not acted upon.

(11) In 1898, the United States annexed Hawaii through the Newlands Resolution without the consent of or compensation to the indigenous people of Hawaii or their sovereign government who were thereby denied the mechanism for expression of their inherent sovereignty through self-government and self-determination, their lands and ocean resources.

(12) Through the Newlands Resolution and the 1900 Organic Act, the United States Congress received 1.75 million acres of lands formerly owned by the Crown and Government of the Hawaiian Kingdom and exempted the lands from then existing public land laws of the United States by mandating that the revenue and proceeds from these lands be “used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes”, thereby establishing a

special trust relationship between the United States and the inhabitants of Hawaii.

(13) In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 which designated 200,000 acres of the ceded public lands for exclusive homesteading by Native Hawaiians, thereby affirming the trust relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane who was cited in the Committee Report of the United States House of Representatives Committee on Territories as stating, "One thing that impressed me . . . was the fact that the natives of the islands who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty."

(14) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the extension to Native Hawaiians and to permit fishing in the area "only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance".

(15) Under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under such Act.

(16) Under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4, 6).

(17) The authority of the Congress under the United States Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawaii.

(18) In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people.

(19) This historical and unique legal relationship has been consistently recognized and affirmed by the Congress through the enactment of Federal laws which extend to the Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including the Native American Programs Act of 1974; the American Indian Religious Freedom Act; the National Museum of the American Indian Act; and the Native American Graves Protection and Repatriation Act.

(20) The United States has also recognized and reaffirmed the trust relationship to the Hawaiian people through legislation which authorizes the provision of services to Native Hawaiians, specifically, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Veterans' Benefits and Services Act of 1988, the Rehabilitation Act of 1973, the Native Hawaiian Health Care Act of 1988, the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Handicapped Programs Technical Amendments Act of 1988, the Indian Health Care Amendments of 1988, and the Disadvantaged Minority Health Improvement Act of 1990.

(21) The United States has also affirmed the historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986.

(22) Despite such services, the unmet health needs of the Native Hawaiian people are severe and the health status of Native Hawaiians continues to be far below that of the general population of the United States.

SEC. 3. [42 U.S.C. 11702] DECLARATION OF POLICY.

(a) CONGRESS.—The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

(1) to raise the health status of Native Hawaiians to the highest possible health level; and

(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

(b) INTENT OF CONGRESS.—It is the intent of the Congress that the Nation meet the following health objectives with respect to Native Hawaiians by the year 2000:

(1) Reduce coronary heart disease deaths to no more than 100 per 100,000.

(2) Reduce stroke deaths to no more than 20 per 100,000.

(3) Increase control of high blood pressure to at least 50 percent of people with high blood pressure.

(4) Reduce blood cholesterol to an average of no more than 200 mg/dl.

- (5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.
- (6) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.
- (7) Increase Pap tests every 1 to 3 years to at least 85 percent of women age 18 and older.
- (8) Increase fecal occult blood testing every 1 to 2 years to at least 50 percent of people age 50 and older.
- (9) Reduce diabetes-related deaths to no more than 34 per 100,000.
- (10) Reduce the most severe complications of diabetes as follows:
 - (A) end-stage renal disease to no more than 1.4 in 1,000;
 - (B) blindness to no more than 1.4 in 1,000;
 - (C) lower extremity amputation to no more than 4.9 in 1,000;
 - (D) perinatal mortality to no more than 2 percent; and
 - (E) major congenital malformations to no more than 4 percent.
- (11) Reduce infant mortality to no more than 7 deaths per 1,000 live births.
- (12) Reduce low birth weight to no more than 5 percent of live births.
- (13) Increase first trimester prenatal care to at least 90 percent of live births.
- (14) Reduce teenage pregnancies to no more than 50 per 1,000 girls age 17 and younger.
- (15) Reduce unintended pregnancies to no more than 30 percent of pregnancies.
- (16) Increase to at least 60 percent the proportion of primary care providers who provide age-appropriate preconception care and counseling.
- (17) Increase years of healthy life to at least 65 years.
- (18) Eliminate financial barriers to clinical preventive services.
- (19) Increase childhood immunization levels to at least 90 percent of 2-year-olds.
- (20) Reduce the prevalence of dental caries to no more than 35 percent of children by age 8.
- (21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children age 6 through 8 and no more than 15 percent among adolescents age 15.
- (22) Reduce edentulism to no more than 20 percent in people age 65 and older.
- (23) Increase moderate daily physical activity to at least 30 percent of the population.
- (24) Reduce sedentary lifestyles to no more than 15 percent of the population.
- (25) Reduce overweight to a prevalence of no more than 20 percent of the population.

(26) Reduce dietary fat intake to an average of 30 percent of calories or less.

(27) Increase to at least 75 percent the proportion of primary care providers who provide nutrition assessment and counseling or referral to qualified nutritionists or dieticians.

(28) Reduce cigarette smoking prevalence to no more than 15 percent of adults.

(29) Reduce initiation of smoking to no more than 15 percent by age 20.

(30) Reduce alcohol-related motor vehicle crash deaths to no more than 8.5 per 100,000 adjusted for age.

(31) Reduce alcohol use by school children age 12 to 17 to less than 13 percent.

(32) Reduce marijuana use by youth age 18 to 25 to less than 8 percent.

(33) Reduce cocaine use by youth aged 18 to 25 to less than 3 percent.

(34) Confine HIV infection to no more than 800 per 100,000.

(35) Reduce gonorrhea infections to no more than 225 per 100,000.

(36) Reduce syphilis infections to no more than 10 per 100,000.

(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

(38) Reduce acute middle ear infections among children age 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

(39) Reduce indigenous cases of vaccine-preventable diseases as follows:

(A) Diphtheria among individuals age 25 and younger to 0;

(B) Tetanus among individuals age 25 and younger to 0;

(C) Polio (wild-type virus) to 0;

(D) Measles to 0;

(E) Rubella to 0;

(F) Congenital Rubella Syndrome to 0;

(G) Mumps to 500; and

(H) Pertussis to 1,000; and

(40) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

(c) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 11, a report on the progress made in each area toward meeting each of the objectives described in subsection (b).

SEC. 4. [42 U.S.C. 11703] COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.

(a) DEVELOPMENT.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing and updating a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to

maintain and improve the health status of Native Hawaiians. The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians. To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

SEC. 5. [42 U.S.C. 11704] FUNCTIONS OF PAPA OLA LOKAHI.

(a) **RESPONSIBILITY.**—Papa Ola Lokahi shall be responsible for the—

(1) coordination, implementation, and updating, as appropriate, of the comprehensive health care master plan developed pursuant to section 4;

(2) training for the persons described in section 6(c)(1)(B);

(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services; and

(4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this Act.

(b) **SPECIAL PROJECT FUNDS.**—Papa Ola Lokahi is authorized to receive special project funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.

(c) **CLEARINGHOUSE.**—Papa Ola Lokahi shall serve as a clearinghouse for:

(1) the collection and maintenance of data associated with the health status of Native Hawaiians;

(2) the identification and research into diseases affecting Native Hawaiians;

(3) the availability of Native Hawaiian project funds, research projects and publications;

(4) the collaboration of research in the area of Native Hawaiian health; and

(5) the timely dissemination of information pertinent to the Native Hawaiian health care systems.

(d) **COORDINATION OF PROGRAMS AND SERVICES.**—Papa Ola Lokahi shall, to the maximum extent possible, coordinate and assist the health care programs and services provided to Native Hawaiians.

(e) **TECHNICAL SUPPORT.**—Papa Ola Lokahi shall act as a statewide infrastructure to provide technical support and coordination of training and technical assistance to the Native Hawaiian health care systems.

(f) **RELATIONSHIPS WITH OTHER AGENCIES.**—Papa Ola Lokahi is authorized to enter into agreements or memoranda of understanding with relevant agencies or organizations that are capable of providing resources or services to the Native Hawaiian health care systems.

SEC. 6. [42 U.S.C. 11705] NATIVE HAWAIIAN HEALTH CARE SYSTEMS.

(a) **COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.**—(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians.

(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health care systems and Native Hawaiian organizations and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems.

(2) In addition to paragraph (1), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O’ahu, Moloka’i, Maui, Hawai’i, Lana’i, Kaua’i, and Ni’ihau in the State of Hawaii.

(b) **QUALIFIED ENTITY.**—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is a Native Hawaiian health care system.

(c) **SERVICES TO BE PROVIDED.**—(1) Each recipient of funds under subsection (a)(1) shall provide the following services:

(A) outreach services to inform Native Hawaiians of the availability of health services;

(B) education in health promotion and disease prevention of the Native Hawaiian population by, wherever possible, Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators;

(C) services of physicians, physicians’ assistants, nurse practitioners or other health professionals;

(D) immunizations;

(E) prevention and control of diabetes, high blood pressure, and otitis media;

(F) pregnancy and infant care; and

(G) improvement of nutrition.

(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):

(A) identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians;

(B) collection of data related to the prevention of diseases and illnesses among Native Hawaiians; and

(C) services within the meaning of the terms “health promotion”, “disease prevention”, and “primary health services”, as such terms are defined in section 12, which are not specifically referred to in paragraph (1) of this subsection.

(3) The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.

(4) **HEALTH AND EDUCATION.**—In order to enable privately funded organizations to continue to supplement public efforts to provide educational programs designed to improve the

health, capability, and well-being of Native Hawaiians and to continue to provide health services to Native Hawaiians, notwithstanding any other provision of Federal or State law, it shall be lawful for the private educational organization identified in section 7202(16) of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act) to continue to offer its educational programs and services to Native Hawaiians (as defined in section 6207 of the Elementary and Secondary Education Act of 1965) first and to others only after the need for such programs and services by Native Hawaiians has been met.

(d) **LIMITATION OF NUMBER OF ENTITIES.**—During a fiscal year, the Secretary under this Act may make a grant to, or hold a contract with, not more than 5 Native Hawaiian health care systems.

(e) **MATCHING FUNDS.**—(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to a Native Hawaiian health care system—

(A) in an amount exceeding 83.3 percent of the costs of providing health services under the grant or contract; and

(B) unless the Native Hawaiian health care system agrees that the Native Hawaiian health care system or the State of Hawaii will make available, directly or through donations to the Native Hawaiian health care system, non-Federal contributions toward such costs in an amount equal to not less than \$1 (in cash or in kind under paragraph (2)) for each \$5 of Federal funds provided in such grant or contract.

(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

(3) The Secretary may waive the requirement established in paragraph (1) if—

(A) the Native Hawaiian health care system involved is a nonprofit private entity described in subsection (b); and

(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the Native Hawaiian health care system to comply with such requirement.

(f) **RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.**—The Secretary may not make a grant to, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, amounts received pursuant to such subsection will not, directly or through contract, be expended—

(1) for any purpose other than the purposes described in subsection (c);

(2) to provide inpatient services;

(3) to make cash payments to intended recipients of health services; or

(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

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(g) **LIMITATION ON CHARGES FOR SERVICES.**—The Secretary may not make a grant, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

(2) the entity will impose a charge for the delivery of health services, and such charge—

(A) will be made according to a schedule of charges that is made available to the public, and

(B) will be adjusted to reflect the income of the individual involved.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2019 to carry out subsection (a)(1).

(2) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a)(2).

SEC. 7. [42 U.S.C. 11706] ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.

(a) **IN GENERAL.**—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 4;

(2) training for the persons described in section 6(c)(1)(B);

(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services;

(4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this Act;

(5) a clearinghouse function for—

(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

(B) the identification and research into diseases affecting Native Hawaiians; and

(C) the availability of Native Hawaiian project funds, research projects and publications;

(6) the coordination of the health care programs and services provided to Native Hawaiians; and

(7) the administration of special project funds.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2019 to carry out subsection (a).

SEC. 8. [42 U.S.C. 11707] ADMINISTRATION OF GRANTS AND CONTRACTS.

(a) **TERMS AND CONDITIONS.**—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this Act with an entity unless the entity—

(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

(3) with respect to providing health services to any population of Native Hawaiians, a substantial portion of which has a limited ability to speak the English language—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

(A) if the entity will provide under the grant or contract any such health services directly—

(i) the entity has entered into a participation agreement under such plans; and

(ii) the entity is qualified to receive payments under such plan; and

(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

(i) the organization has entered into a participation agreement under such plan; and

(ii) the organization is qualified to receive payments under such plan; and

(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

(d) CONTRACT EVALUATION.—(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 6, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or un-

satisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 6 with another entity referred to in section 6(b) that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

(2) In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of the evaluation under this section.

(3) All contracts entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

(4) Payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except for grants and contracts under section 7, the Secretary may not grant to, or enter into a contract with, an entity under this Act unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this Act for the purpose of administering the grant or contract.

(f) REPORT.—(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this Act, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

(A) activities conducted by the entity under the grant or contract;

(B) the amounts and purposes for which Federal funds were expended; and

(C) such other information as the Secretary may request.

(2) The reports and records of any entity which concern any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant.

SEC. 9. [42 U.S.C. 11708] ASSIGNMENT OF PERSONNEL.

(a) IN GENERAL.—The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under the authority of subsection (a) shall be treated as

an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

SEC. 10. [42 U.S.C. 11709] NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

(a) **ELIGIBILITY.**—Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Papa Ola Lokahi for the purpose of providing scholarship assistance to students who—

(1) meet the requirements of section 329¹ of the Public Health Service Act (42 U.S.C. 254b),² and

(2) are Native Hawaiians.

(b) **TERMS AND CONDITIONS.**—(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 254l), provided that—

(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional identified in the Native Hawaiian comprehensive health care master plan implemented under section 4 to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

(B) the primary health services covered under the scholarship assistance program under this section shall be the services included under the definition of that term under section 12(8);

(C) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate³;

(D) the obligated service requirement for each scholarship recipient shall be fulfilled through the full-time clinical or non-clinical practice of the health profession of the scholarship recipient, in an order of priority that would provide for practice—

(i) first, in any one of the five Native Hawaiian health care systems; and

(ii) second, in—

(I) a health professional shortage area or medically underserved area located in the State of Hawaii; or

(II) a geographic area or facility that is—

¹ So in law. Section 2 of Public Law 104–299 (110 Stat. 3626) redesignated section 329 as section 330.

² Section 12(a) of Public Law 105–256 (112 Stat. 1899) made the following amendment:

SEC. 12. NATIVE HAWAIIAN HEALTH SCHOLARSHIP PROGRAM.

(a) **ELIGIBILITY.**—Section 10(a)(1) of the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11709(a)(1)) is amended by striking “meet the requirements of section 338A of the Public Health Service Act (42 U.S.C. 254l)” and inserting “meet the requirements of paragraphs (1), (3), and (4) of section 338A(b) of the Public Health Service Act (42 U.S.C. 254l(b))”.

This amendment could not be executed.

³ Section 514(a)(2) of Public Law 107–116 attempts to amend subsection (b)(1)(C) by striking “Kamehameha School/Bishop Estate” and inserting “Papa Ola Lokahi”. The amendment could not be executed because the phrase proposed to be struck does not appear.

(aa) located in the State of Hawaii; and
 (bb) has a designation that is similar to a designation described in subclause (I) made by the Secretary, acting through the Public Health Service;

(E) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs,⁴

(F) the obligated service of a scholarship recipient shall not be performed by the recipient through membership in the National Health Service Corps; and

(G) the requirements of sections 331 through 338 of the Public Health Service Act (42 U.S.C. 254d through 254k), section 338C of that Act (42 U.S.C. 254m), other than subsection (b)(5) of that section, and section 338D of that Act (42 U.S.C. 254n) applicable to scholarship assistance provided under section 338A of that Act (42 U.S.C. 254l) shall not apply to the scholarship assistance provided under subsection (a) of this section.

(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2019 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

SEC. 11. [42 U.S.C. 11710] REPORT.

The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Native Hawaiians, and ensure a health status for Native Hawaiians, which are at a parity with the health services available to, and the health status of, the general population.

SEC. 12. [42 U.S.C. 11711] DEFINITIONS.

For purposes of this Act:

(1) DISEASE PREVENTION.—The term “disease prevention” includes—

- (A) immunizations,
- (B) control of high blood pressure,
- (C) control of sexually transmittable diseases,
- (D) prevention and control of diabetes,
- (E) control of toxic agents,
- (F) occupational safety and health,
- (G) accident prevention,
- (H) fluoridation of water,

⁴So in original. The amendment made by section 12(b)(5) of Public Law 105–256 (112 Stat. 1900) struck the period and inserted a comma. It probably should have inserted a “semicolon”.

- (I) control of infectious agents, and
- (J) provision of mental health care.
- (2) HEALTH PROMOTION.—The term “health promotion” includes—
 - (A) pregnancy and infant care, including prevention of fetal alcohol syndrome,
 - (B) cessation of tobacco smoking,
 - (C) reduction in the misuse of alcohol and drugs,
 - (D) improvement of nutrition,
 - (E) improvement in physical fitness,
 - (F) family planning,
 - (G) control of stress; and
 - (H) educational programs with the mission of improving the health, capability, and well-being of Native Hawaiians.
- (3) NATIVE HAWAIIAN.—The term “Native Hawaiian” means any individual who is—
 - (A) a citizen of the United States, and
 - (B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—
 - (i) genealogical records,
 - (ii) Kupuna (elders) or Kama’aina (long-term community residents) verification, or
 - (iii) birth records of the State of Hawaii.
- (4) NATIVE HAWAIIAN HEALTH CENTER.—The term “Native Hawaiian health center” means an entity—
 - (A) which is organized under the laws of the State of Hawaii,
 - (B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
 - (C) which is a public or nonprofit private entity, and
 - (D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.
- (5) NATIVE HAWAIIAN ORGANIZATION.—The term “Native Hawaiian organization” means any organization—
 - (A) which serves the interests of Native Hawaiians,
 - (B) which is—
 - (i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians, and
 - (ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act,
 - (C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and
 - (D) which is a public or nonprofit private entity.

(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term “Native Hawaiian health care system” means an entity—

(A) which is organized under the laws of the State of Hawaii,

(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,

(C) which is a public or nonprofit private entity,

(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services,

(E) which may be composed of as many Native Hawaiian health centers as necessary to meet the health care needs of each island’s Native Hawaiians, and

(F) which is—

(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this Act for the benefit of Native Hawaiians, and

(ii) certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements under the contract the Native Hawaiian health care system enters into with the Secretary or the grant the Native Hawaiian health care system receives from the Secretary pursuant to this Act.

(7) PAPA OLA LOKAHI.—(A) The term “Papa Ola Lokahi” means an organization composed of—

(i) E Ola Mau;

(ii) the Office of Hawaiian Affairs of the State of Hawaii;

(iii) Alu Like Inc.;

(iv) the University of Hawaii;

(v) the Office of Hawaiian Health of the Hawaii State Department of Health;

(vi) Ho’ola Lahui Hawaii, or a health care system serving the islands of Kaua’i and Ni’ihau, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

(vii) Ke Ola Mamo, or a health care system serving the island of O’ahu, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

(viii) Na Pu’uwai or a health care system serving the islands of Moloka’i and Lana’i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

(ix) Hui No Ke Ola Pono, or a health care system serving the island of Maui, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

(x) Hui Malama Ola Ha'Oiwi or a health care system serving the island of Hawaii, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island; and

(xi) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians, and upon satisfactory development of a mission statement in relation to this Act, including clearly defined goals and objectives, a 5-year action plan outlining the contributions that each organization will make in carrying out the policy of this Act, and an estimated budget.

(B) Such term does not include any such organization identified in subparagraph (A) if the Secretary determines that such organization has not developed a mission statement with clearly defined goals and objectives for the contributions the organization will make to the Native Hawaiian health care systems, and an action plan for carrying out those goals and objectives.

(8) PRIMARY HEALTH SERVICES.—The term “primary health services” means—

(A) services of physicians, physicians' assistants, nurse practitioners, and other health professionals;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care;

(F) preventive dental services; and

(G) pharmaceutical services, as may be appropriate for particular health centers.

(9) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(10) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term “traditional Native Hawaiian healer” means a practitioner—

(A) who—

(i) is of Hawaiian ancestry, and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

(B) whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders, and

(ii) oral traditions transmitted from generation to generation.

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SEC. 13. [42 U.S.C. 11712] RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

SEC. 14. REPEAL OF DEMONSTRATION PROJECT.

Section 205 of the Indian Health Care Improvement Act is repealed.

SEC. 15. [42 U.S.C. 11713] COMPLIANCE WITH BUDGET ACT.

Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 16. [42 U.S.C. 11714] SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.