

Public Law 91-623

AN ACT

December 31, 1970
[S. 4106]

To amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Health Personnel Act of 1970".

SEC. 2. Part C of title III of the Public Health Service Act is amended by adding after section 328 the following new section:

"ASSIGNMENT OF MEDICAL AND OTHER HEALTH PERSONNEL TO CRITICAL
NEED AREAS

"SEC. 329. (a) It shall be the function of an identifiable administrative unit within the Service to improve the delivery of health services to persons living in communities and areas of the United States where health personnel and services are inadequate to meet the health needs of the residents of such communities and areas.

"(b) Upon request of a State or local health agency or other public or nonprofit private health organization, in an area designated by the Secretary as an area with a critical health manpower shortage, to have health personnel of the Service assigned to such area, and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary is authorized, whenever he deems such action appropriate, to assign commissioned officers and other personnel of the Service to provide, under regulations prescribed by the Secretary, health care and services for persons residing in such areas. Such care and services shall be provided in connection with (1) direct health care programs carried out by the Service; (2) any direct health care program carried out in whole or in part with Federal financial assistance; or (3) any other health care activity which is in furtherance of the purposes of this section. Any person who receives a service provided under this section shall be charged for such service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary may provide for the furnishing of such service at a reduced rate or without charge. If a Federal agency or a State or local government agency or other third party would be responsible for all or part of the cost of the service provided under this section if such service had not been provided under this section, the Secretary shall collect from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(c) Commissioned officers and other personnel of the Service assigned to areas designated under subsection (b) shall not be included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded.

"(d) Notwithstanding any other provision of law, the Secretary, to the extent feasible, may make such arrangements as he determines necessary to enable officers and other personnel of the Service in providing care and services under subsection (b) to utilize the health facilities of the area to be served. If there are no such facilities in such

Emergency
Health Personnel
Act of 1970.
58 Stat. 695;
81 Stat. 539.
42 USC 248.

Facilities,
utilization.

area, the Secretary may arrange to have such care and services provided in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of such care and services.

“(e) (1) There is established a council to be known as the National Advisory Council on Health Manpower Shortage Areas (hereinafter in this section referred to as the ‘Council’). The Council shall be composed of fifteen members appointed by the Secretary as follows:

National Advisory Council on Health Manpower Shortage Areas, establishment, membership.

“(A) Four members shall be appointed from the general public, representing the consumers of health care.

“(B) Three members shall be appointed from the medical, dental, and other health professions and health teaching professions.

“(C) Three members shall be appointed from State health or health planning agencies.

“(D) Three members shall be appointed from the Service, at least two of whom shall be commissioned officers of the Service.

“(E) One member shall be appointed from the National Advisory Council on Comprehensive Health Planning.

“(F) One member shall be appointed from the National Advisory Council on Regional Medical Programs.

The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this section.

“(2) Members of the Council shall be appointed for a term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

Term.

“(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

Compensation.

80 Stat. 499;
83 Stat. 190.

“(f) It shall be the function of the Secretary—

“(1) to establish guidelines with respect to how the Service shall be utilized in areas designated under this section;

“(2) to select commissioned officers of the Service and other personnel for assignment to the areas designated under this section; and

“(3) to determine which communities or areas may receive assistance under this section taking into consideration—

“(A) the need of the community or area for health services provided under this section;

“(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Service in providing effective health services to residents of the community or area;

“(C) the recommendations of any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area or community involved; and

“(D) recommendations from the State medical, dental, and other health associations and from other medical personnel of the community or area considered for assistance under this section.

Appropriation.

“(g) To carry out the purposes of this section, there are authorized to be appropriated \$10,000,000 for the fiscal year ending June 30, 1971; \$20,000,000 for the fiscal year ending June 30, 1972; and \$30,000,000 for the fiscal year ending June 30, 1973.”

58 Stat. 683;
81 Stat. 539.
42 USC 202.

SEC. 4. Title II of the Public Health Service Act is amended by adding after section 223 the following new section:

“DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

62 Stat. 933,
983; 80 Stat. 306.

“SEC. 223. (a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

“(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

Civil action,
removal from
State to district
court.

“(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided*, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

62 Stat. 869.
28 USC 1.

Claims, settle-
ment.

“(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

80 Stat. 307.

“(e) For purposes of this section, the provisions of section 2680(h)

of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

62 Stat. 985.

“(f) The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.”

Liability insurance.

80 Stat. 307.

Approved December 31, 1970.

Public Law 91-624

AN ACT

December 31, 1970
[H. R. 17750]

To grant the consent of Congress to the city of Boston to construct, maintain, and operate a causeway and fixed-span bridge in Fort Point Channel, Boston, Massachusetts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the city of Boston to construct, maintain, and operate a causeway and a fixed-span bridge in and over the water of the Fort Point Channel, Boston, Massachusetts, lying between the northeasterly side of the Summer Street highway bridge and the easterly side of the Dorchester Avenue highway bridge.

Fort Point Channel bridge, Boston, Mass. Construction, maintenance.

SEC. 2. Work shall not be commenced on such bridge and causeway until the location and plans therefor are submitted to and approved by the Secretary of Transportation.

SEC. 3. Any project heretofore authorized by an Act of Congress, insofar as such project relates to the above-described portions of Fort Point Channel, is hereby abandoned.

SEC. 4. In approving the location and plans of any bridge, the Secretary of Transportation may impose any specific conditions relating to the maintenance and operation of the structure which may be deemed necessary in the interest of public navigation.

Approved December 31, 1970.

Public Law 91-625

AN ACT

December 31, 1970
[H. R. 7334]

To designate the lake formed by the waters impounded by the Libby Dam, Montana, as “Lake Kooacanusa”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake formed by the waters impounded by the Libby Dam in the State of Montana shall hereafter be known as Lake Kooacanusa and any law, regulation, document, or record of the United States in which such lake is designated or referred to shall be held to refer to such lake under and by the name of “Lake Kooacanusa”.

Lake Kooacanusa, Mont. Designation.

Approved December 31, 1970.