§ 201 Definitions

When used in this chapter—

(a) The term “Service” means the Public Health Service;

(b) The term “Surgeon General” means the Surgeon General of the Public Health Service;

(c) Unless the context otherwise requires, the term “Secretary” means the Secretary of Health and Human Services.

(d) The term “regulations”, except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Secretary;

(e) The term “executive department” means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;

(f) Except as provided in sections 246(g)(4)(B), 247c(c)(1), 247c(c)(2), 254d(h)(3), 263c(5), 264(d), 292a(9), and 300a(c), 300f(13), and 300n(1) of this title, the term “State” includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(g) The term “possession” includes, among other possessions, Puerto Rico and the Virgin Islands;


(i) The term “vessel” includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

(j) The term “habit-forming narcotic drug” or “narcotic” means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, and other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts, and preparations; opiates (as defined in section 4731(g)(1) of this title);

(k) The term “addict” means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(l) The term “psychiatric disorders” includes diseases of the nervous system which affect mental health;

(m) The term “State mental health authority” means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term “heart diseases” means diseases of the heart and circulation;

(o) The term “dental diseases and conditions” means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth;

(p) The term “uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or National Oceanic and Atmospheric Administration.

(q) The term “drug dependent person” means a person who is using a controlled substance (as defined in section 802 of title 21) and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.


\[1 \text{See References in Text note below.} \]

Codification
Section was enacted as part of title I of act July 1, 1944, ch. 373, 58 Stat. 682, and not as part of title II of such Act which comprises this subchapter.

Amendments


Subsec. (h), Pub. L. 97–35, § 986(a), struck out reference to section 300s–3(1) of this title.
EFFECTIVE DATE OF 1970 AMENDMENT

Section 12(b) ofPub. L. 86–624 provided that: "The amendments made by sections 10(d) and 11 [amending this section and sections 276, 277, 278, 280, 280a–1, 280b–2 to 280b–9, and 280b–11 of this title] shall take effect on the date of enactment of this Act (Mar. 13, 1970)."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 47(f) ofPub. L. 86–624 provided that: "The amendments made by subsection (c), paragraphs (3) and (4) of subsection (b), and paragraph (4) of subsection (d) of section 14 [amending sections 151, 151g, 155gg, 244, and 645 of Title 20, Education], by section 20(a) [amending section 466 of Title 33, Navigation and Navigable Waters], by subsections (a), (b), and (c), and paragraph (4) of subsection (d), of section 29 [amending this section and sections 255, 264, and 291i of this title], and by subsection (d), and paragraph (2) of subsection (c), of section 30 [amending sections 410 and 1301 of this title] shall become effective on August 21, 1959."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment byPub. L. 86–70 effective Jan. 3, 1959, see section 47(d) of Pub. L. 86–70.

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–380, § 1, Jan. 4, 2011, 124 Stat. 4131, provided that: "This Act [amending section 300g–6 of this title and enacting provisions set out as a note under section 300g–6 of this title] may be cited as the 'Reduction of Lead in Drinking Water Act.'"

Pub. L. 111–347, §1(a), Jan. 2, 2011, 124 Stat. 3623, provided that: "This Act [amending subchapter XXXI of this chapter, section 5000C of Title 26, Internal Revenue Code, and provisions set out as a note under section 5000C of Title 26 and amending provisions set out as notes under section 1101 of Title 8, Aliens and Nationality, and section 40101 of Title 49, Transportation] may be cited as the 'James Zadroga 9/11 Health and Compensation Act of 2010.'"

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–337, §1, Dec. 22, 2010, 124 Stat. 3588, provided that: "This Act [amending section 280g–1 of this title] may be cited as the 'Early Hearing Detection and Intervention Act of 2010.'"

Pub. L. 111–112, §1, Oct. 8, 2010, 124 Stat. 2789, provided that: "This Act [amending sections 274k and 274m of this title and amending provisions set out as a note under section 274k of this title] may be cited as the 'Stephanie Tubbs Jones Gift of Life Medal Act of 2008.'"


SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–87, §1(a), Oct. 30, 2009, 123 Stat. 2885, provided that: "This Act [amending sections 300f–7a of this title and part IV of subchapter XXIV of this chapter] may be cited as the 'Establishing a Network of Health-Advancing National Centers of Excellence for Depression Act of 2009' or the 'ENHANCED Act of 2009.'"

Pub. L. 111–17, §1(a), Mar. 23, 2010, 124 Stat. 988, provided that: "This section [amending sections 280g–13 and 285b–8 of this title] may be cited as the 'Congenital Heart Futures Act.'"

SHORT TITLE OF 2008 AMENDMENT


Pub. L. 110–381, §1, Oct. 9, 2008, 122 Stat. 4801, provided that: "This Act [amending sections 300gg–7 and 300gg–54 of this title, section 9813 of Title 26, Internal Revenue Code, and section 1185c of Title 29, Labor, and enacting provisions set out as notes under section 9813 of this title] may be cited as the 'Stephanie Tubbs Jones Gift of Life Medal Act of 2008.'"

Pub. L. 110–377, §1, Oct. 8, 2008, 122 Stat. 4063, provided that: "This Act [amending sections 3004d–1 to 3004d–73 of this title and enacting provisions set out as notes under sections 3004d–71 to 3004d–73 of this title] may be cited as the 'Poison Center Support, Enhancement, and Awareness Act of 2008.'"

Pub. L. 110–374, §1, Oct. 8, 2008, 122 Stat. 4051, provided that: "This Act [amending section 280g–8 of this title and enacting provisions set out as a note under section 280g–8 of this title] may be cited as the 'ESTABLISHING A NETWORK OF HEALTH-ADVANCING NATIONAL CENTERS OF EXCELLENCE FOR DEPRESSION ACT OF 2009' or the 'ENHANCED ACT OF 2009.'"
that: "This Act [enacting section 273a and 274f–1 to 274f–4 of this title and amending sections 273 and 274f of this title] may be cited as the ‘Health Care Safety Net Amendments Technical Corrections Act of 2003.’"


Pub. L. 108–41, § 1, July 1, 2003, 117 Stat. 839, provided that: "This Act [amending section 244 of this title] may be cited as the ‘Automatic Defibrillation in Adam’s Memorial Act.’"

Pub. L. 108–20, § 1, Apr. 30, 2003, 117 Stat. 638, provided that: "This Act [enacting section 223h and amending sections 224h–1, 224h–15, 254c–13, 254d to 254f–1, 254h to 254i, 254k to 254r of this title] may be cited as the ‘Student Health Care Safety Net Amendments Act of 2003.’"


Pub. L. 108–188, title I, § 1503(a), June 12, 2002, 116 Stat. 634, provided that: "This section [enacting provisions set out as notes under sections 254e to 254h of this title] may be cited as the ‘Health Care Safety Net Amendments Act of 2002.’"


Pub. L. 108–26, title I, § 1, Oct. 29, 2002, 116 Stat. 1742, provided that: "This Act [amending sections 223 to 223c of this title and enacting provisions set out as notes under sections 223o to 223p of this title] may be cited as the ‘Nurse Reinvestment Act.’"


Pub. L. 108–203, § 1, Aug. 1, 2002, 116 Stat. 811, provided that: "This Act [enacting provisions set out as notes under sections 223x to 223z of this title] may be cited as the ‘Nurse Reinvestment Act.’"


Pub. L. 107–127, title I, § 1503(a), May 14, 2002, 116 Stat. 541, provided that: "This Act [amending sections 233 to 233o of this title and provisions set out as notes under sections 233a to 233m of this title] may be cited as the ‘Hematological Cancer Research Investment and Education Act of 2002.’"

99b to 299b–3, 299c to 299c–3, 299c–5, and 300x–9 of this title and enacting provisions set out as notes under sections 299a–2, 299b–1, and 299b–2 of this title] may be cited as the 'DES Education and Research Amendments of 1992'."


Pub. L. 102–408, §1(a), Oct. 13, 1992, 106 Stat. 2992, provided that: "This Act [enacting subchapter V of this chapter and sections 297n, 298a–2, and 300d–1 of this title, amending sections 242a, 286, 286a, 290a–2, and 290b–6 of this title and section 1078–3 of Title 20, Education, repealing sections 295a–1, 295b, 297a, 297c, 297f, 297g, 297h, 297i, 297l, 297n, 297s, and 298b of this title and section 1078–3 of this title, enacting provisions set out as notes under this section, sections 292, 295j, 295k, 296k, and 297b of this title, section 1078–3 of Title 20, and section 434–1 of Title 21, Food and Drugs, and amending provisions set out as a note under section 300x of this title] may be cited as the 'Health Professions Education Extension Amendments of 1992'."

Pub. L. 102–408, title II, §201, Oct. 13, 1992, 106 Stat. 2969, provided that: "This title [enacting sections 297n, 298b–6 of this title, enacting provisions set out as notes under sections 296k and 297b of this title] may be referred to as the 'DHHS Education and Practice Improvement Amendments of 1992'."


Pub. L. 102–323, §1(a), July 10, 1992, 106 Stat. 323, provided that: "This Act [see Tables for classification] may be cited as the ‘ADAMHA Reorganization Act’."

SHORT TITLE OF 1991 AMENDMENTS

Pub. L. 102–168, §1, Nov. 26, 1991, 105 Stat. 1102, provided that: "This Act [amending sections 300x, 300x–2, 300x–6, 300a–11 to 300a–13, 300a–15, 300a–16, 300a–21, 300f–13, 300f–17, 300f–51, and 300f–52 of this title and section 4512 of Title 20, Education, and enacting provisions set out as a note under section 300x–9 of this title] may be cited as the ‘National Health Care and Alzheimer’s Disease Amendments of 1991’."

**SHORT TITLE OF 1988 AMENDMENTS**

Pub. L. 100-60, §1(a), Nov. 24, 1987, 101 Stat. 1433, provided that: ‘‘This title [enacting part I (§ 3001–3002) of title IV of Pub. L. 100–203, enacting section 300aa–1 of this title] may be cited as the ‘Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988.’’

Pub. L. 100-60, §1(a), Nov. 24, 1987, 101 Stat. 1433, provided that: ‘‘This title [enacting sections 264, 264c–1, and 254–1 of this title, amending sections 242a, 242c, 242d, 242m, 242n, 242p, 247d to 254c, 254h–1, 254k, 295m to 295q, 295v, 11370 of this title, repealing former section 254 of this title, and enacting provisions set out as notes under sections 325, 325a, 325b, 325m, 325v–1, and 11375 of this title] may be cited as the ‘Public Health Service Amendments of 1987.’’

Pub. L. 100-175, title VI, §601, Nov. 29, 1987, 101 Stat. 797, provided that: ‘‘This title [enacting part K (§ 280c et seq.) of subchapter II of this chapter] may be cited as the ‘AIDS Health Care Services in the Home Act of 1987.’’

Pub. L. 100-97, §1, Aug. 18, 1987, 101 Stat. 715, provided: ‘‘That this Act [enacting section 255g–8a of this title and provisions set out as a note under section 255g–8a of this title] may be cited as the ‘Excellence in Minority Health Education and Care Act.’’

**SHORT TITLE OF 1988 AMENDMENTS**

Pub. L. 99–660, title III, §301, Nov. 14, 1986, 100 Stat. 3755, provided that: ‘‘This title [enacting sections 300a–1 to 300a–33 of this title, amending sections 218, 242c, 262, 266, and 2891 of this title, redesignating former sections 300a to 300a–15 of this title as sections 300cc to 300cc–15 of this title, and enacting provisions set out as notes under sections 300aa–1 and 300aa–4 of this title] may be cited as the ‘National Childhood Vaccine Injury Act of 1986.’’

Pub. L. 99–660, title V, §501, Nov. 14, 1986, 100 Stat. 3794, provided that: ‘‘This title [enacting sections 300x–10 to 300x–13 of this title and amending sections 290a–3 and 300x–4 of this title] may be cited as the ‘State Comprehensive Mental Health Services Plan Act of 1986.’’

Pub. L. 99–660, title VIII, §801, Nov. 14, 1986, 100 Stat. 3799, provided that: ‘‘This title [enacting sections 300e–1, 300e–4, 300e–5 to 300e–10, 300e–18, and 300e–17 of this title, repealing sections 300e–2, 300a–5, and 300e–4a of this title, and enacting provisions set out as notes under sections 300e, 300e–1, 300e–4, and 300e–5 of this title] may be cited as the ‘Health Maintenance Organization Amendments of 1986.’’


Pub. L. 99–570, title IV, §4001(a), Oct. 27, 1986, 100 Stat. 3297–103, provided that: ‘‘This subtitle [subtitle A (§4001–4022) of title IV of Pub. L. 99–570, enacting sections 290aa–3a, 290a–6 to 290a–10, and 300y to 300y–2 of this title, amending sections 218, 241, 290a to 290a–3, 290a–4, 290a–5, 290aa–1, 290bb–1, 290bb–2, 290cc, and 290g–2 of this title and sections 331 and 355a of Title 21, Food and Drugs, and enacting provisions set out as notes under sections 290aa–3a, 290aa–3a, and 290bb of this title] may be cited as the ‘Alcohol and Drug Abuse Amendments of 1987.’’

300h–7, 300i–1, and 300j–11 of this title, amending sections 300f, 300g–1 to 300g–5 of this title and sections 1261 and 1983 of Title 15, Commerce and Trade, transferring section 6939b to 6979a of this title, and enacting provisions set out as notes under sections 300g–6 and 300–1 of this title and section 1261 of Title 15 may be cited as the ‘Safe Drinking Water Act Amendments of 1986’.

Pub. L. 99–280, §1(a), Apr. 24, 1986, 100 Stat. 399, provided that: ‘‘This Act [amending sections 254b and 254c of this title and repealing sections 300y to 300y–11 of this title] may be cited as the ‘Health Professions Training Assistance Act of 1986.’”

SHORT TITLE OF 1985 AMENDMENTS


Pub. L. 99–284, §1(a), Apr. 26, 1986, 99 Stat. 175, provided that: ‘‘This Act [enacting sections 289a–1 and 289a–5 of this title, transferring sections 219 to 224, 225a to 227, 228 to 228b, 228c, 228e, 228f, 231, 2311, 4531, 4532, 4534, 4535, 4587, 4588, 4571, 4561, 4581, and 4582 of this title to sections 289a to 289a–5, 289a–6 to 289a–8, 289a–9 to 289a–14, 289a–3, 289a–1, 290b, 290b–1 to 290b–4, 290dd–1, 290dd–2, and 290dd–3 of this title, respectively, and sections 117(a), 110, 1101, 1109, 1192, and 1193 of Title 21, Food and Drugs, to sections 289a–2(e), 290cc–2, 290ee–3, 290ee–1, 290aa–2, 2900e, and 290cc of this title, respectively, amending sections 218, 277b, 281 and 283d of this title and section 802 of Title 21, and enacting provisions set out as a note under section 289c–3 of this title] may be cited as the ‘Health Education Amendments of 1986.’”

SHORT TITLE OF 1981 AMENDMENTS

Section 940(a) of Pub. L. 97–35 provided that: ‘‘This subtitle [subtitle F (§§1194–949) of title IX of Pub. L. 97–35, amending sections 300e–1 and 300e–4 to 300e–12 of this title and sections 245g–1 of the Public Health Service Act, respectively, and sections 245g–1 to 245g of this title, and repealing provisions set out as notes under sections 245g–1 of this title and sections 1333, 1336, and 1341 of Title 15, Commerce and Trade, and section 6103 of Title 26, Internal Revenue Code, repealing sections 296 to 296b, 296d to 296f, 296g, 297, and 297 of this title, and enacting provisions set out as notes under sections 296c and 296g–5 of this title] may be cited as the ‘Nurse Education Amendments of 1981.’”

SHORT TITLE OF 1980 AMENDMENTS

Pub. L. 96–538, §1(a), Dec. 17, 1980, 94 Stat. 3183, provided that: ‘‘This Act [enacting sections 289c–3, 289c–4, 289c–7 of this title, amending sections 296c, 297c, 287a, 287b, 287c, 287e, 287f, 287g, 287h, 287i, 287j, 287k, 287l, 287m, 287n, 287o, 287p, 287q, 287r, 287s, 287t, 287u, 287v, 287w, 287x, 287y, and 287z of this title, and repealing provisions set out as notes under sections 296c–3, 296c–8, and 297c–3 of this title] may be cited as the ‘Public Health Service Act Amendments of 1980.’”

SHORT TITLE OF 1979 AMENDMENTS

Pub. L. 96–142, title I, §101, Dec. 12, 1979, 93 Stat. 1067, provided that: ‘‘This title [amending sections 296g–9, 300d–1, 300d–5, 300d–6, 300d–9, and 300d–21 of this title and enacting provisions set out as a note under section 295g–9 of this title] may be cited as the ‘Emergency Medical Services Systems Amendments of 1979.’”
Section 1(a) of Pub. L. 96–76 provided that: "This Act [enacting sections 242p, 247, 247a, 247c, 247e, 254a, 254b, 254c, 254k, 294t, 294u–1, 300a–21, 300d–2, and 300e–1 of this title, amending section 4541, 4573, and 4585 of this title, and enacting provisions set out as notes under sections 300f of this title, and section 5108 of Title 5, Government Organization and Employees, and amending provisions set out as notes under sections 300f, 7401, and 7502 of this title] may be cited as the 'Safe Drinking Water Amendments of 1977'." Section 101 of title I of Pub. L. 95–83 provided that: "This title [amending sections 210, 212, 213a, 215, and 218a of this title and sections 201, 415, and 1006 of Title 37, Pay and Allowances of the Uniformed Services, and enacting provisions set out as a note under section 206 of this title] may be cited as the 'Health Services Extension Act of 1978'."
Pub. L. 94–562, §1(a), Oct. 19, 1976, 90 Stat. 2645, provided that: "This Act [enacting sections 289c–3a, 289c–7, and 289c–8 of this title, amending sections 289c–2, 289c–4 to 289c–6 of this title, and enacting provisions set out as notes under sections 289a, 289c–3a, and 289c–7 of this title] may be cited as the 'Arthritis, Diabetes, and Digestive Disease Amendments of 1976'."

**SHORT TITLE OF 1975 AMENDMENTS**

Pub. L. 94–63, title I, §101, July 29, 1975, 89 Stat. 304, provided that: "This title [amending section 289c of this title and enacting provisions set out as notes under section 246 of this title] may be cited as the 'Special Health Revenue Sharing Act of 1975'."

Pub. L. 94–63, title II, §1201, July 29, 1975, 89 Stat. 306, provided that: "This title [enacting sections 300a–6a and 300a–8 of this title, amending sections 300, 300a–1 to 300a–4 of this title, and repealing section 350c of this title] may be cited as the 'Family Planning and Population Research Act of 1975'."

Pub. L. 94–63, title IX, §901(a), July 29, 1975, 89 Stat. 354, provided that: "This title [enacting sections 296 to 296m and 296–3 of this title, amending sections 296 to 296l, 297 to 297e, 297 to 297–2, 298c–1 and 298c–7 of this title, repealing sections 296g, 296i, 296l, 296–7, and 296–8 of this title, and enacting provisions set out as notes under sections 296e, 296a, 296d, 296e, 296m, 297, and 297b of this title and former section 297l of this title] may be cited as the 'Nurse Training Act of 1975'."

Pub. L. 93–641, §1, Jan. 4, 1975, 88 Stat. 2225, provided that: "This Act [enacting subchapter XIII of this chapter amending section 300e–4 of this title, repealing section 246a of this title, and enacting provisions set out as notes under sections 217a, 229, 291b, 300m, and 300n of this title] may be cited as the 'National Health Planning and Resources Development Act of 1974'."

**SHORT TITLE OF 1974 AMENDMENTS**

Pub. L. 93–640, §1, Jan. 4, 1975, 88 Stat. 2217, provided that: "This Act [enacting sections 286–4, 286–5, and 286–6 of this title, amending sections 289a and 289c–1 of this title, and enacting provisions set out as notes under section 289c–1 of this title] may be cited as the 'Arthritis Act of 1974'."

Pub. L. 93–323, §1, Dec. 18, 1974, 88 Stat. 1600, as amended by Pub. L. 104–182, title V, §501(e), Aug. 6, 1996, 110 Stat. 1891, provided that: "This Act [enacting subchapter XII of this chapter and section 349 of Title 21, Food and Drugs, amending this section, and enacting provisions set out as a note under section 301f of this title] may be cited as the 'Safe Drinking Water Act of 1974'."

Pub. L. 93–354, §1, July 23, 1974, 88 Stat. 373, provided that: "This Act [enacting sections 289c–1a, 289c–2, and 289c–3 of this title, amending sections 246b and 289c–1 of this title, and enacting provisions set out as notes under section 289c–2 of this title] may be cited as the 'National Diabetes Mellitus Research and Education Act'."

Pub. L. 92–352, title I, §101, July 23, 1974, 88 Stat. 358, provided that: "This title [enacting section 298–4 of this title, amending sections 241, 282, 286a, 286b, 286c, 286f, and 286h of this title, enacting provisions set out as notes under sections 289 and 289–1 of this title, and amending provisions set out as a note under this section] may be cited as the 'National Cancer Act Amendments of 1974.'"

Pub. L. 93–348, title I, §1, July 12, 1974, 88 Stat. 342, provided that: "This Act [enacting sections 289–1 to 289–3 of this title, amending sections 218, 241, 242a, 292, 286a, 286b, 286f, 286h, 287a, 287b, 287d, 288a, 289a, 289c–1, 289g, 289k, 289l, and 300a–7 of this title, and enacting provisions set out as notes under sections 218, 241, 289–1, and 289–3 of this title] may be cited as the 'National Research Act.'"

Pub. L. 93–87, title I, §101, July 12, 1974, 88 Stat. 342, provided that: "This title [enacting sections 234 of this title, and provisions set out as notes under section 234 of this title and provisions set out as notes under section 247c of this title, enacting provisions set out as notes under sections 247b and 247h of this title, amending sections 218, 241, 287a, 287g, and 287h of this title, and enacting provisions set out as notes under section 287g of this title] may be cited as the 'National Heart, Blood Vessel, Lung, and Blood Act of 1972.'"

**Short Title of 1971 Amendments**


Pub. L. 92–158, §1(a), Nov. 18, 1971, 85 Stat. 465, provided that: "This Act [enacting sections 296h, 296i, 297i, 298h–1, and 298h–2 of this title, amending sections 296a, 296b, 296c, 296d, 296e, 296f, 296g, 297, 297a, 297b, 297c, 297e, 297f, 298b, 298c, and 298e–7 of this title and enacting provisions set out as notes under sections 296a, 296d, 296e, 296f, and 298c of this title] may be cited as the 'Nurse Training Act of 1971.'"

Pub. L. 92–157, title I, §101(a), Nov. 18, 1971, 85 Stat. 451, provided that: "This Act [enacting sections 234 of this title, and provisions set out as notes under section 234 of this title and sections 211a, 212a, and 222 of this title] shall be known as the 'Comprehensive Health Manpower Training Act of 1971.'"

**Short Title of 1970 Amendments**


Pub. L. 91–572, §1, Dec. 24, 1970, 84 Stat. 1504, provided: "This Act [enacting sections 300 to 300a–6 and 3565a to 3565c of this title, amending sections 211a, 212a of this title and section 763 of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 201, 222, and 300 of this title] may be cited as the 'Family Planning Services and Population Research Act of 1970.'"

Pub. L. 91–519, §1, Nov. 2, 1970, 84 Stat. 1342, provided: "That this Act [enacting sections 295h–3 to 295h–3d of this title, and enacting provisions set out as notes under sections 289 of this title and section 346a of Title 21, Food and Drugs, and enacting provisions set out as notes under section 265h–8 of this title] may be cited as the 'Comprehensive Health Manpower Training Act of 1970.'"


Pub. L. 91–296, §1(a), June 30, 1970, 84 Stat. 336, provided: "This Act [enacting sections 229h, 291–1 to 291–10, and 291c–1 of this title, amending sections 291a, 242b, 245a, 246, 291 note, 291b, 291c, 291d, 291f, 291g, 291h–1 to 291m–1, 291o, and 298a of this title and section 1717 of Title 12, Housing and Urban Development, enacting provisions set out as notes under this section and sections 246, 246a, 246b, 291a, 291c, 291e, 291f, 291g, 291h, and 298a of this title, and enacting provisions set out as notes under sections 293h and 298c of this title] may be cited as the 'Homes Training Improvement Act of 1970.'"
Section 1 of Pub. L. 91–212 provided that: “This Act [enacting section 280–12 of this title and amending this section and sections 276 to 278, 280, 280–1, 280b, 280b–2 to 280b–7, and 280b–11 of this title] may be cited as the ‘Medical Library Assistance Extension Act of 1970’.”

**SHORT TITLE OF 1968 AMENDMENTS**

Pub. L. 90–574, title IV, § 401, Oct. 15, 1968, 82 Stat. 1011, provided that: “This title [amending sections 291a and 291b of this title] may be cited as the ‘Hospital and Medical Facilities Construction and Modernization Assistance Amendments of 1968’.”

Pub. L. 90–490, § 1, Aug. 16, 1968, 82 Stat. 773, provided: “That this Act [enacting sections 294f, 295f–1, 295f–6, 295g, and 297h of this title, amending sections 292c, 294d, 295f to 295f–4, 295g, 295h to 295h–3, 296 to 296c, 296d, 296e, 297 to 297f, 298b, 298c, and 298c–1 of this title, omitting sections 298c–2 to 298c–6 of this title, and enacting provisions set out as notes under sections 292c, 292e, 293 to 293c, 294f, 295f, 295f–2, 295g, 296, 296d, 296f, and 297a of this title] may be cited as the ‘Health Manpower Act of 1968’.”

**SHORT TITLE OF 1967 AMENDMENTS**

Pub. L. 90–174, § 1, Dec. 5, 1967, 81 Stat. 533, provided: “That this Act [enacting sections 217b, 254a, 254c, and 254e of this title, amending section 254a of this title, enacting provisions set out as notes under section 291 of this title” and Part J of subchapter II of this chapter] may be cited as the ‘Partnership for Health Amendments of 1967’.”

Pub. L. 90–751, § 1, Sept. 4, 1964, 78 Stat. 908, provided: “That this Act [enacting subchapter VI of this chapter, amending sections 291c, 291d, 291e, 291f, and 293h of this title, and enacting provisions set out as notes under sections 201, 211a, 212a, 221, 291c, 293e, and 293h of this title, sections 757, 790, and 800 of former Title 5, Executive Department and Government Officers and Employees, and section 783a of Title 33, Navigation and Navigable Waters] may be cited as the ‘Health Research Facilities Amendments of 1965’.”


**SHORT TITLE OF 1964 AMENDMENTS**


Pub. L. 88–443, § 1, Aug. 18, 1964, 78 Stat. 447, provided: “That this Act [enacting sections 247c, 291 to 291l, 291k to 291m, 291n, and 291o of this title and enacting provisions set out as notes under section 291j of this title] may be cited as the ‘Hospital and Medical Facilities Amendments of 1964’.”
Act July 3, 1956, ch. 510, § 1, 70 Stat. 489, provided that: "This Act [enacting section 246 of this title, amended section 241 of this title, and enacting provisions set out as a note under section 246 of this title] may be cited as the 'National Health Survey Act.'"

**SHORT TITLE OF 1955 AMENDMENT**

Joint Res. July 28, 1955, ch. 417, § 1, 69 Stat. 382, provided that: "This joint resolution [enacting section 242b of this title and provisions set out as a note under section 242b of this title] may be cited as the 'Mental Health Study Act of 1955.'"

**SHORT TITLE OF 1948 AMENDMENTS**

Section 1 of act June 24, 1948, provided that: "This Act [enacting part C of subchapter III of this chapter and sections 210, 218, and 241 of this title] may be cited as the 'National Dental Research Act.'"

Section 1 of act June 16, 1948, provided that: "This Act [enacting sections 232 and 262a of this title, amending this section and sections 203, 206, 210, 218, 219, 241, 246, 281, 283, and 286 of this title] may be cited as the 'National Heart Act.'"

Section 1 of act July 3, 1946, provided: "That this Act [enacting sections 232 and 262a of this title, amending this section and sections 203, 206, 210, 218, 219, 241, 244, and 246 of this title, and enacting provisions set out as a note under this section] may be cited as the 'National Mental Health Act.'"

**SHORT TITLE**


Section 329 of act July 1, 1944, formerly § 319, as added by Pub. L. 87-692, Sept. 25, 1962, 76 Stat. 592, amended and renumbered, formerly classified to section 254b of this title, was popularly known as the "Migrant Health Act.""

Section 1400 of title XIV of act July 1, 1944, as added Aug. 6, 1996, Pub. L. 104-182, title V, § 501(e), 110 Stat. 1691, provided that: "This title [enacting subchapter XII of this chapter] may be cited as the 'Safe Drinking Water Act.'"

**RENUMBERING AND REPEAL OF REPEALING ACT**


**SAVINGS PROVISION**


**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 469(b), 531(d), 532(d), and 537 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3, of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.


**TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

**CONGRESSIONAL DECLARATION OF PURPOSE FOR COMPREHENSIVE ALCOHOL ABUSE, DRUG ABUSE, AND MENTAL HEALTH AMENDMENTS ACT OF 1988**

Pub. L. 100-690, title II, § 2012, Nov. 18, 1988, 102 Stat. 4193, provided that: "The purposes of this subtitle [subtitle A (§§201-2081) of title II of Pub. L. 100-690, see Tables for classification] with respect to substance abuse are— "(1) to prevent the transmission of the etiologic agent for acquired immune deficiency syndrome by ensuring that treatment services for intravenous drug abuse are available to intravenous drug abusers; "(2) to continue the Federal Government's partnership with the States in the development, maintenance, and improvement of community-based alcohol and drug abuse programs; "(3) to provide financial and technical assistance to the States and communities in their efforts to develop and maintain a core of prevention services for the purpose of reducing the incidence of substance abuse and the demand for alcohol and drug abuse treatment; "(4) to assist and encourage States in the initiation and expansion of prevention and treatment services to underserved populations; "(5) to increase, to the greatest extent possible, the availability and quality of treatment services so that..."
treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem; and

"(G) to increase understanding about the extent of alcohol abuse and other forms of drug abuse by expanding data collection activities and supporting research on the comparative cost and efficacy of substance abuse prevention and treatment services."

**PURPOSE OF ACT JULY 3, 1946**

Section 2 of act July 3, 1946, provided: "The purpose of this Act [see Short Title of 1946 Amendment note above] is the improvement of the mental health of the people of the United States through the conducting of researches, investigations, experiments, and demonstrations relating to the cause, diagnosis, and treatment of psychiatric disorders; assisting and fostering such research activities by public and private agencies, and providing the conditions of all research and activities and the useful application of their results; training personnel in matters relating to mental health; and, assisting and developing States in the use of, the most effective methods of prevention, diagnosis, and treatment of psychiatric disorders."

**EXISTING POSITIONS, PROCEDURES, REGULATIONS, FUNDS, APPROPRIATIONS, AND PROPERTY**


**APPROPRIATIONS FOR EMERGENCY AND SANITATION ACTIVITIES**


**AVAILABILITY OF APPROPRIATIONS**

Pub. L. 91–296, title VI, §601, June 30, 1970, 84 Stat. 353, as amended Pub. L. 93–45, title IV, §401(a), June 18, 1973, 87 Stat. 95; Pub. L. 93–352, title I, §113, July 23, 1974, 88 Stat. 350, provided that: "Notwithstanding any other provision of law, unless enacted after the enactment of this Act [June 30, 1970] expressly in limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) [this chapter] or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88–164, as amended) [sections 2098 et seq. and 3001 et seq. of this title] shall remain available for obligation and expenditure until the end of such fiscal year."

**FEDERAL ACCOUNTABILITY**

Pub. L. 102–321, title II, §203(b), July 10, 1992, 106 Stat. 410, provided that: "Any rule or regulation of the Department of Health and Human Services that is inconsistent with the amendments made by this Act [see Tables for classification] shall not have any legal effect, including section 50(e) of title 45, Code of Federal Regulations (45 CFR 96.50(e))."

**HAZARDOUS SUBSTANCES**

Federal Hazardous Substances Act as not modifying this chapter, see Pub. L. 86–613, §18, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

**DEFINITION OF “SECRETARY”**

Pub. L. 90–574, title V, §507, Oct. 15, 1968, 82 Stat. 1013, as amended by Pub. L. 96–88, title V, §509(b), 93 Stat. 695, provided: "As used in the amendments made by this Act [enacting sections 229a, 291, 2988e to 2988q, and 2987a of this title, amending sections 210g, 242h, 291a, 291b, 299a to 299e, 2953, and 3259 of this title, repealing section 3442 of this title, and enacting provisions set out as notes under sections 291a, 2988e, 3442 of this title, section 278 of Title 22, Foreign Relations and Intercourse, and section 3681 of Title 38, Veterans' Benefits], the term ‘Secretary’ means the Secretary of Health and Human Services."

Pub. L. 90–174, §15, Dec. 5, 1967, 81 Stat. 542, as amended by Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, provided: "As used in the amendments made by this Act [enacting sections 217b, 243(c), 251(b), 294a, 293a, and 291m–1 and amending sections 242b, 242c(2), 246d(1), (e), and 296(c)(1) of this title] the term ‘Secretary’ means the Secretary of Health and Human Services."
programs are consistent with the President’s stated goals with respect to health reform;
(c) integrate the President’s policy agenda concerning health reform across the Federal Government;
(d) coordinate public outreach activities conducted by executive departments and agencies designed to gather input from the public, from demonstration and pilot projects, and from public-private partnerships on the problems and priorities for policy measures designed to meet the President’s goals for improvement of the health care system;
(e) bring to the President’s attention concerns, ideas, and policy options for strengthening, increasing the efficiency, and improving the quality of the health care system;
(f) work with State, local, and community policymakers and public officials to expand coverage, improve quality and efficiency, and slow the growth of health costs;
(g) develop and implement strategic initiatives under the President’s agenda to strengthen the public agencies and private organizations that can improve the performance of the health care system;
(h) work with the Congress and executive departments and agencies to eliminate unnecessary legislative, regulatory, and other bureaucratic barriers that impede effective delivery of efficient and high-quality health care;
(i) monitor implementation of the President’s agenda on health reform; and
(j) help ensure that policymakers across the executive branch work toward the President’s health care agenda.

SEC. 4. Administration. (a) The Health Reform Office may work with established or ad hoc committees, task forces, or interagency groups.

(b) The Health Reform Office shall have a staff headed by the Director of the Health Reform Office (Director). The Health Reform Office shall have such staff and other assistance as may be necessary to carry out the provisions of this order.

(c) As requested by the Director, each executive department and agency shall designate a liaison to work with the Health Reform Office on improving access to health care, the quality of health care, and the sustainability of the health care system.

(d) All executive departments and agencies shall cooperate with the Health Reform Office and provide such information, support, and assistance to the Health Reform Office as it may request, to the extent permitted by law.

SEC. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:
(i) authority granted by law to a department, agency, or the head thereof; or
(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, and legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

PART A—ADMINISTRATION

§ 202. Administration and supervision of Service

The Public Health Service in the Department of Health and Human Services shall be administered by the Assistant Secretary for Health under the supervision and direction of the Secretary.


AMENDMENTS


TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3301 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96–65 which is classified to section 3508(b) of Title 20, Education.

INTERNATIONAL HEALTH ADMINISTRATION


REORGANIZATION PLAN NO. 3 OF 1966


Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 23, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

PUBLIC HEALTH SERVICE

SECTION 1. TRANSFER OF FUNCTIONS

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

SECTION 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

SECTION 3. ABOLITIONS

(a) The following agencies of the Public Health Service are hereby abolished:
(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.
(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.
(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 208(b)) but excluding the several research institutes in the agency designated as the National Institutes of Health.
(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any
outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. INCIDENTAL TRANSFERS
As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department which relate to functions affected by this reorganization plan.

[The Secretary and Department of Health, Education, and Welfare were redesignated the Secretary and Department of Health and Human Services, respectively, by 20 U.S.C. 3508.]

MESSAGE OF THE PRESIDENT
To the Congress of the United States:

I
Today we face new challenges and unparalleled opportunities in the field of health. Building on the progress of the past several years, we have truly begun to match the achievements of our medicine to the needs of our people.

The task ahead is immense. As a nation, we will unceasingly pursue our research and learning, our training and building, our testing and treatment. But now our concern must also turn to the organization of our Federal health programs.

As citizens we are entitled to the very best health services our resources can provide.

As taxpayers, we demand the most efficient and economical health organizations that can be devised.

I ask the Congress to approve a reorganization plan to bring new strength to the administration of Federal health programs.

I propose a series of changes in the organization of the Public Health Service that will bring to all Americans a structure modern in design, more efficient in operation and better prepared to meet the great and growing needs of the future. Through such improvements we can achieve the full promise of the landmark health legislation enacted by the 89th Congress.

I do not propose these changes lightly. They follow a period of careful deliberation. For many months the Secretary of Health, Education, and Welfare, and the Surgeon General have consulted leading experts in the Nation—physicians, administrators, scientists, and public health specialists. They have confirmed my belief that modernization and reorganization of the Public Health Service are urgently required and long overdue.

II
The Public Health Service is an operating agency of the Department of Health, Education, and Welfare. It is the principal arm of the Federal Government in the field of health. Its programs are among those most vital to our well-being.

Since 1953 more than 50 new programs have been placed in the Public Health Service. Its budget over the past 12 years has increased tenfold—from $250 million to $2.4 billion.

Today the organization of the Public Health Service is clearly obsolete. The requirement that new and expanding programs be administered through an organizational structure established by law more than two decades ago stands as a major obstacle to the fulfillment of our Nation’s health goals.

As presently constituted, the Public Health Service is composed of four major components:

- National Institutes of Health.
- Bureau of State Services.
- Bureau of Medical Services.
- Office of the Surgeon General.

Under present law, Public Health Service functions must be assigned only to these four components.

This structure was designed to provide separate administrative arrangements for health research, programs of State and local aid, health services, and executive staff resources. At a time when these functions could be neatly compartmentalized, the structure was adequate. But today the situation is different.

Under recent legislation many new programs provide for an integrated attack on specific disease problems or health hazards in the environment by combining health services, State and local aid, and research. Each new program of this type necessarily is assigned to one of the three operating components of the Public Health Service. Yet none of these components is intended to administer programs involving such a variety of approaches.

Our health problems are difficult enough without having them complicated by outdated organizational arrangements.

But if we merely take the step of integrating the four agencies within the Public Health Service we will not go far enough. More is required.

III
The Department of Health, Education, and Welfare performs major health or health-related functions which are not carried out through the Public Health Service, although they are closely related to its functions. Among these are:

- Health insurance for the aged, administered through the Social Security Administration;
- Medical assistance for the needy, administered through the Welfare Administration;
- Regulation of the manufacture, labeling, and distribution of drugs, carried out through the Food and Drug Administration; and
- Grants-in-aid to States for vocational rehabilitation of the handicapped, administered by the Vocational Rehabilitation Administration.

Expenditures for health and health-related programs of the Department administered outside the Public Health Service have increased from $44 million in 1953 to an estimated $5.4 billion in 1967.

As the head of the Department, the Secretary of Health, Education, and Welfare is responsible for the Administration and coordination of all the Department’s health functions. He has clear authority over the programs I have just mentioned.

But today he lacks this essential authority over the Public Health Service. The functions of that agency are vested in the Surgeon General and not in the Secretary.

This diffusion of responsibility is unsound and unwise.

To secure the highest possible level of health services for the American people the Secretary of Health, Education, and Welfare must be given the authority to establish—and modify as necessary—the organizational structure for Public Health Service programs.

He must also have the authority to coordinate health functions throughout the Department. The reorganization plan I propose will accomplish these purposes. It will provide the Secretary with the flexibility to create new and responsive organizational arrangements to keep pace with the changing and dynamic nature of our health programs.

My views in this respect follow a basic principle of good government set by the Hoover Commission in 1949 when it recommended that “the Department head should be given authority to determine the organization within his Department.”

IV
In summary, the reorganization plan would:
Transfer to the Secretary of Health, Education, and Welfare the functions now vested in the Surgeon General of the Public Health Service and in its various subordinate units (this transfer will not affect certain statutory advisory bodies such as the National Advisory Cancer and Heart Councils); abolish the four principal statutory components of the Public Health Service, including the offices held by their heads (the Bureau of Medical Services, the Bureau of State Services, the National Institutes of Health exclusive of its several research institutes such as the National Cancer and Heart Institutes, and the Office of the Surgeon General); and authorize the Secretary to assign the functions transferred to him by the plan to officials and entities of the Public Health Service and to other agencies of the Department as he deems appropriate. Thus, the Secretary would be—

Enabled to assure that all health functions of the Department are carried out as effectively and economically as possible;

Given authority commensurate with his responsibility; and

Made responsible in fact for matters for which he is now, in any case, held accountable by the President, the Congress, and the people.

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

Should the reorganizations in the accompanying reorganization plan take effect, they will make possible more effective and efficient administration of the affected health programs. It is, however, not practicable at this time to itemize the reductions in expenditures which may result.

I strongly recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, April 25, 1966.

EXECUTIVE ORDER No. 10506


EX. ORD. NO. 11140. DELEGATION OF FUNCTIONS


By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Health and Human Services is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the functions vested in the President by Sections 203 and 207(a)(2) of the Public Health Service Act (58 Stat. 683, 685), as amended (42 U.S.C. 204 and 207(a)(2), or otherwise, of accepting voluntary resignations of commissioned officers of the Regular Corps or the Reserve Corps.

SIC. 3. The Secretary of Health and Human Services is hereby authorized and empowered, without the approval, ratification, or other action of the President, to exercise the authority vested in the President by Section 704 of Title 37 of the United States Code to prescribe regulations.

SIC. 4. The Secretary of Health and Human Services is hereby authorized to redelegate all or any part of the functions set forth under (a), (b), (c), and (d) of Section 1 hereof to the Surgeon General of the Public Health Service or other official of that Service who is required to be appointed by and with the advice and consent of the Senate.

SIC. 5. All actions heretofore taken by appropriate authority with respect to the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved with respect to such matters, shall, except as they may be inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SIC. 6. As used in this order, the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise".

SIC. 7. (a) Executive Order No. 10506 of December 19. 1953, entitled "Delegating Certain Functions of the President under the Public Health Service Act," is hereby superseded.

(b) Executive Orders Nos. 9993 of August 31, 1948, 10031 of January 26, 1949, 10280 of August 16, 1951, 10354 of May 26, 1952, and 10497 of October 27, 1953, which prescribed regulations relating to commissioned officers and employees of the Public Health Service, are hereby revoked. Nothing in this subsection shall be deemed to alter or otherwise affect the regulations prescribed by the Surgeon General (42 CFR Parts 21 and 22) to replace the regulations prescribed by the orders described in the preceding sentence.

§ 203. Organization of Service

The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services, and the Agency for Healthcare Research and Quality. The Secretary is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such

1So in original. The "and" probably should not appear.

2So in original. Probably should be followed by "(3)".

3See 1993 Amendment note below.
divisions, sections, and other units as he may find necessary; and from time to time abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes of Health shall be administered as a part of the field service. The Secretary may delegate to any officer or employee of the Service such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient.


AMENDMENTS
Pub. L. 103–43, §2008(g)(1), which directed the amendment of this section by striking “Surgeon General” the second and subsequent times that such term appears and inserting “Secretary”, was executed by making the substitution before “is authorized and directed” and before “may delegate to any officer” and by leaving unchanged “Surgeon General” in the phrase “assign to the Office of the Surgeon General” in second sentence, to reflect the probable intent of Congress.

TRANSFER OF FUNCTIONS
Bureau of Medical Services, Bureau of State Services, National Institutes of Health, excluding several research institutes in agency, and Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title, Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare, and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3001 of this title, Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953, Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20.

§ 204. Commissioned Corps and Ready Reserve Corps
(a) Establishment
(1) In general
There shall be in the Service a commissioned Regular Corps and a Ready Reserve Corps for service in time of national emergency.

(2) Requirement
All commissioned officers shall be citizens of the United States and shall be appointed without regard to the civil-service laws and compensated without regard to the Classification Act of 1923, as amended.

(3) Appointment
Commissioned officers of the Ready Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by the President with the advice and consent of the Senate.

(4) Active duty
Commissioned officers of the Ready Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training.

(5) Warrant officers
Warrant officers may be appointed to the Service for the purpose of providing support to the health and delivery systems maintained by the Service and any warrant officer appointed to the Service shall be considered for purposes of this chapter and title 37 to be a commissioned officer within the Commissioned Corps of the Service.

(b) Assimilating Reserve Corps officers into the Regular Corps
Effective on March 23, 2010, all individuals classified as officers in the Reserve Corps under this section (as such section existed on the day before March 23, 2010) and serving on active duty shall be deemed to be commissioned officers of the Regular Corps.

(c) Purpose and use of Ready Reserve
(1) Purpose
The purpose of the Ready Reserve Corps is to fulfill the need to have additional Commissioned Corps personnel available on short notice (similar to the uniformed service’s reserve program) to assist regular Commissioned Corps personnel to meet both routine public health and emergency response missions.

(2) Uses
The Ready Reserve Corps shall—
(A) participate in routine training to meet the general and specific needs of the Commissioned Corps;
(B) be available and ready for involuntary calls to active duty during national emergencies and public health crises, similar to the uniformed service reserve personnel;
(C) be available for backfilling critical positions left vacant during deployment of active duty Commissioned Corps members, as well as for deployment to respond to public health emergencies, both foreign and domestic; and
(D) be available for service assignment in isolated, hardship, and medically underserved communities (as defined in section 265p of this title) to improve access to health services.

(d) Funding
For the purpose of carrying out the duties and responsibilities of the Commissioned Corps
under this section, there are authorized to be appropriated $5,000,000 for each of fiscal years 2010 through 2014 for recruitment and training and $12,500,000 for each of fiscal years 2010 through 2014 for the Ready Reserve Corps.


REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in subsec. (a)(2), is act Mar. 4, 1923, ch. 265, 42 Stat. 1488, which was classified to section 661 et seq. of former Title 5, Executive Departments and Government Officers and Employees, and was repealed by act Oct. 28, 1949, ch. 782, title XII, §1202, 63 Stat. 972.

AMENDMENTS

2010—Pub. L. 111–148 inserted section catchline and amended text generally. Prior to amendment, text read as follows: “There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to chapter 51 and subchapter III of chapter 53 of title 5. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of determining their fitness for appointment in the Regular Corps. Warrant officers may be appointed to the Service for the purpose of providing support to the health and delivery systems maintained by the Service and any warrant officer appointed to the Service shall be considered for purposes of this chapter and title 37 to be a commissioned officer within the commissioned corps of the Service.”


1948—Act Feb. 28, 1948, struck out provision that all active service in Reserve Corps, as well as service in Regular Corps, shall be credited for purpose of promotion in Regular Corps.

REPEALS

Act Oct. 28, 1949, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–76, Sept. 6, 1966, §8, 80 Stat. 632, 655.

REPORTS


“(a) REPORTS BY SECRETARY OF HEALTH AND HUMAN SERVICES.—On an annual basis, the Secretary of Health and Human Services shall submit to the appropriate Committees of Congress a report on the activities carried out under the amendments made by this title [see Tables for classification], and the effectiveness of such activities.

“(b) REPORTS BY RECIPIENTS OF FUNDS.—The Secretary of Health and Human Services may require, as a condition of receiving funds under the amendments made by this title, that the entity receiving such award submit to such Secretary such reports as the such Secretary may require on activities carried out with such award, and the effectiveness of such activities.”

OSTEOPATHS AS RESERVE OFFICERS

Section 709 of act July 1, 1944, formerly §609, renumbered §709 by act Aug. 13, 1946, ch. 598, §5, 60 Stat. 1049, which provided for appointment of osteopaths as reserve officers until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, §1, 61 Stat. 449.

DELEGATION OF AUTHORITY TO APPOINT COMMISSIONED OFFICERS OF THE READY RESERVE CORPS OF THE PUBLIC HEALTH SERVICE

Memorandum of President of the United States, June 1, 2010, 75 F.R. 32245, provided:

Memorandum for the Secretary of Health and Human Services

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 203 of the Public Health Service Act, as amended by Public Law 111–148, to appoint commissioned officers of the Ready Reserve Corps. The exercise of this authority is limited to appointments of individuals who were extended offers of employment for appointment and call to active duty in the Reserve Corps of the Public Health Service with an appointment date subsequent to March 23, 2010, the date of enactment of Public Law 111–148, but who were not on active duty on that date, and those individuals who are selected for the 2010 Commissioned Officer Student Training and Extern Program. This authority may not be re-delegated. You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 204a. Deployment readiness

(a) Readiness requirements for Commissioned Corps officers

(1) In general

The Secretary, with respect to members of the following Corps components, shall establish requirements, including training and medical examinations, to ensure the readiness of such components to respond to urgent or emergency public health care needs that cannot otherwise be met at the Federal, State, and local levels:

(A) Active duty Regular Corps.

(B) Active Reserves.

(2) Annual assessment of members

The Secretary shall annually determine whether each member of the Corps meets the applicable readiness requirements established under paragraph (1).

(3) Failure to meet requirements

A member of the Corps who fails to meet or maintain the readiness requirements established under paragraph (1) or who fails to comply with orders to respond to an urgent or emergency public health care need shall, except as provided in paragraph (4), in accordance with procedures established by the Secretary, be subject to disciplinary action as prescribed by the Secretary.

(4) Waiver of requirements

(A) In general

The Secretary may waive one or more of the requirements established under paragraph (1) for an individual who is not able to meet such requirements because of—
(i) a disability;
(ii) a temporary medical condition; or
(iii) any other extraordinary limitation as determined by the Secretary.

(B) Regulations

The Secretary shall promulgate regulations under which a waiver described in subparagraph (A) may be granted.

(5) Urgent or emergency public health care need

For purposes of this section and section 215 of this title, the term "urgent or emergency public health care need" means a health care need, as determined by the Secretary, arising as the result of—

(A) a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.);
(B) an emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);
(C) a public health emergency declared by the Secretary under section 247d of this title;
(D) any emergency that, in the judgment of the Secretary, is appropriate for the deployment of members of the Corps.

(b) Corps management for deployment

The Secretary shall—

(1) organize members of the Corps into units for rapid deployment by the Secretary to respond to urgent or emergency public health care needs;
(2) establish appropriate procedures for the command and control of units or individual members of the Corps that are deployed at the direction of the President or the Secretary in response to an urgent or emergency public health care need of national, State or local significance;
(3) ensure that members of the Corps are trained, equipped and otherwise prepared to fulfill their public health and emergency response roles; and
(4) ensure that deployment planning takes into account—

(A) any deployment exemptions that may be granted by the Secretary based on the unique requirements of an agency and an individual’s functional role in such agency; and
(B) the nature of the urgent or emergency public health care need.

c) Deployment of detailed or assigned officers

For purposes of pay, allowances, and benefits of a Commissioned Corps officer who is detailed or assigned to a Federal entity, the deployment of such officer by the Secretary in response to an urgent or emergency public health care need shall be deemed to be an authorized activity of the Federal entity to which the officer is detailed or assigned.

(70) 1994—Pub. L. 97–74 inserted inserted reference to Reserve Corps and substituted provisions relating to appointment of an individual from the Regular Corps and with specialized training and significant experience, for provisions relating to appointment of an individual sixty-four years of age or older.

701—Pub. L. 97–25 inserted provision that the President may appoint to office of Surgeon General an individual who is sixty-four years of age or older.

Transfer of Functions

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 23, 1966, 31 F.R. 9655, 80 Stat. 1626, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 281 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.
§ 206. Assignment of officers

(a) Deputy Surgeon General

The Surgeon General shall assign one commissioned officer from the Regular Corps to administer the Office of the Surgeon General, to act as Surgeon General during the absence or disability of the Surgeon General or in the event of a vacancy in that office, and to perform such other duties as the Surgeon General may prescribe, and while so assigned he shall have the title of Deputy Surgeon General.

(b) Assistant Surgeons General

The Surgeon General shall assign eight commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, the Chief Nurse Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c) Creation of temporary positions as Assistant Surgeons General

(1) The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such temporary position, and while so serving they shall each have the title of Assistant Surgeon General.

(2) Except as provided in this paragraph, the number of special temporary positions created by the Surgeon General under paragraph (1) shall not on any day exceed 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. If on any day the number of such special temporary positions exceeds such 1 per centum limitation, for a period of not more than one year after such day, the number of such special temporary positions shall be reduced for purposes of complying with such 1 per centum limitation only by the resignation, retirement, death, or transfer to a position of a lower grade, of any officer holding any such temporary position.

(d) Designation of Assistant Surgeon General with respect to absence, disability, or vacancy in offices of Surgeon General and Deputy Surgeon General

The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices of both the Surgeon General and the Deputy Surgeon General.

(1979—Subsec. (b). Pub. L. 96–76, § 302(b), inserted provisions relating to assignment of Chief Nurse Officer and Chief Pharmacist Officer, and substituted "eight" for "six".

Subsec. (c). Pub. L. 96–76, § 303, designated existing provisions as par. (1), struck out provisions relating to maximum number of special temporary positions, and added par. (2).

1948—Subsec. (b). Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

Subsecs. (c), (d). Act Feb. 28, 1948, added subsec. (c) and redesignated former subsec. (c) as (d).

Effective Date of 1979 Amendment

Section 314 of Pub. L. 96–76 provided that: "The amendments made by sections 393, 394, 395, 396, 397, and 313 (amending this section, sections 207, 209, 210b, and 211 of this title, and sections 201, 415, and 1006 of Title 37, Pay and Allowances of the Uniformed Services) shall take effect on October 1, 1979."

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the assets of the Bureau of State Services, Bureau of Medical Services, the Chief Dental Officer of the Service, the Chief Sanitary Engineering Officer of the Service, and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with that of major general; and the Chief Dental Officer, while assigned as such, shall have the grade as is prescribed by law for the officer of the Dental Corps selected and appointed as Assistant Surgeon General of the Army. During the period of appointment to the position of As-
sistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army. Assistant Surgeons General, while assigned as such, shall have the grade corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Secretary after considering the importance of the duties to be performed: Provided, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 206 of this title or pursuant to subsection (c) of section 206 of this title. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows:

1. Officers of the director grade—colonel;
2. Officers of the full grade—major;
3. Officers of the senior grade—captain;
4. Officers of the assistant grade—lieutenant;
5. Officers of the assistant grade—first lieutenant;
6. Officers of the junior assistant grade—second lieutenant;
7. Chief warrant officers of (W–4) grade—chief warrant officer (W–4);
8. Chief warrant officers of (W–3) grade—chief warrant officer (W–3);
9. Chief warrant officers of (W–2) grade—chief warrant officer (W–2); and
10. Warrant officers of (W–1) grade—warrant officer (W–1).

(b) Titles of medical officers

The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon, and (6) junior assistant surgeon. The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of the officers of the Reserve Corps shall have the suffix “Reserve”.

(c) Repealed. Pub. L. 96–76, title III, §304(b), Sept. 29, 1979, 93 Stat. 584

(d) Maximum number in grade for each fiscal year

Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Secretary shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the warrant officer (W–1) grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this chapter) any officer to be separated from the Service or reduced in grade.

(e) Exception to grade limitations for officers assigned to Department of Defense

In computing the maximum number of commissioned officers of the Public Health Service authorized by law to hold a grade which corresponds to the grade of brigadier general or major general, there may be excluded from such computation not more than three officers who hold such a grade so long as such officers are assigned to duty and are serving in a policy-making position in the Department of Defense.

(f) Exception to maximum number limitations for officers assigned to Department of Defense

In computing the maximum number of commissioned officers of the Public Health Service authorized by law or administrative determination to serve on active duty, there may be excluded from such computation officers who are assigned to duty in the Department of Defense.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–502 inserted after first sentence “During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.”
1989—Subsec. (e). Pub. L. 101–93, which directed the substitution of “the Department of Defense” for “the office of Assistant Secretary of Defense for Health Affairs”, was executed by making the substitution for “the office of the Assistant Secretary of Defense for Health Affairs” as the probable intent of Congress.
Subsec. (c). Pub. L. 96–76, §304(b), struck out subsec. (c) setting forth the grade and pay and allowances as director for a commissioned officer below the grade of director assigned to serve as chief of a division.
Subsec. (d). Pub. L. 96–76, §304(c), substituted “warrant officer (W–1)” for “junior assistant”.
1952—Subsec. (a). Act July 17, 1952, provided that the Chief Medical Officer of the Coast Guard should have the grade, pay, and allowances of a major general.

Section, act July 1, 1944, ch. 373, title II, § 207, 58 Stat. 685, related to establishment of special temporary provisions. See sections 206(c) and 207(c) of this title.

§ 209. Appointment of personnel

(a) Original appointments to Regular and Reserve Corps; limitation on appointment and call to active duty

(1) Except as provided in subsections (b) and (e) of this section, original appointments to the Regular Corps may be made only in the warrant officer (W–1), chief warrant officer (W–2), chief warrant officer (W–3), chief warrant officer (W–4), junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, psychology, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for an indefinite period and may be terminated at any time, as the President may direct.

(3) No individual who has attained the age of forty-four shall be appointed to the Regular Corps, or called to active duty in the Reserve Corps for a period in excess of one year, unless:

(A) he has had a number of years of active service (as defined in section 212(d) of this title) equal to the number of years by which his age exceeds forty-four, or

(B) the Surgeon General determines that he possesses exceptional qualifications, not readily available elsewhere in the Commissioned Corps of the Public Health Service, for the performance of special duties with the Service, or

(C) in the case of an officer of the Reserve Corps, the Commissioned Corps of the Service has been declared by the President to be a military service.

(b) Grade and number of original appointments

(1) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment (other than an appointment under section 205 of this title) may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate.

(2) In addition to the number of original appointments to the Regular Corps authorized by paragraph (1) to be made to grades above that of
senior assistant, original appointments authorized to be made to the Regular Corps in any year may be made to grades above that of senior assistant, but not above that of director, in the case of any individual who—

(A) was on active duty in the Reserve Corps on July 1, 1960, (ii) was on such active duty continuously for not less than one year immediately prior to such date, and (iii) applies for appointment to the Regular Corps prior to July 1, 1962, or

(B) does not come within clause (A)(i) and (ii) but was on active duty in the Reserve Corps continuously for not less than one year immediately prior to his appointment to the Regular Corps and has not served on active duty continuously for a period, occurring after June 30, 1960, of more than three and one-half years prior to applying for such appointment.

(3) No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

c) Issuance of commissions

Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Secretary under the seal of the Department of Health and Human Services.

d) Date of appointment; credit for service

(1) For purposes of basic pay and for purposes of promotion, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

(2) For purposes of basic pay, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, in lieu of the credit provided in paragraph (1) of this subsection, be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1) of this subsection, plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

e) Reappointment; credit for service

(1) A former officer of the Regular Corps may, if application for appointment is made within two years after the date of the termination of his prior commission in the Regular Corps, be reappointed to the Regular Corps without examination, except as the Surgeon General may otherwise prescribe, and without regard to the numerical limitations of subsection (b) of this section.

(2) Reappointments pursuant to this subsection may be made to the permanent grade held by the former officer at the time of the termination of his prior commission, or to the next higher grade if such officer meets the eligibility requirements prescribed by regulation for original appointment to such higher grade. For purposes of pay, promotion, and seniority in grade, such reappointed officer shall receive the credits for service to which he would be entitled if such appointment were an original appointment, but in no event less than the credits he held at the time his prior commission was terminated, except that if such officer is reappointed to the next higher grade he shall receive no credit for seniority in grade.

(3) No former officer shall be reappointed pursuant to this subsection unless he shall meet such standards as the Secretary may prescribe.

f) Special consultants

In accordance with regulations, special consultants may be employed to assist and advise in the operations of the Service. Such consultants may be appointed without regard to the civil-service laws.

(g) Designation for fellowships; duties; pay

In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws, may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

(h) Aliens

Persons who are not citizens may be employed as consultants pursuant to subsection (f) of this section and may be appointed to fellowships pursuant to subsection (g) of this section. Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.

(i) Civil service appointments by Secretary

The appointment of any officer or employee of the Service made in accordance with the civil-
service laws shall be made by the Secretary, and may be made effective as of the date on which such officer or employee enters upon duty.


CODIFICATION

In subsec. (f), the words “and their compensation may be fixed without regard to the Classification Act of 1923, as amended”, and in subsec. (g), the words “and compensated without regard to the Classification Act of 1923, as amended” were omitted as obsolete. Sections 1202 and 1203 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in subsecs. (f) and (g) because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632 (of which section 3102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

In subsec. (h), the references to subsections (f) and (g) of this section were, in the original, references to subsections (e) and (f) and were changed to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 207 of act July 1, 1944, was classified to section 206 of this title, prior to repeal by act Feb. 28, 1948, ch. 83, § 5(a), 62 Stat. 40.

AMENDMENTS


Subsec. (b). Pub. L. 86–415, § 3, designated first, second and third sentences as par. (1), fourth sentence as par. (3), and added par. (2).

1956—Subsec. (a)(1). Act Apr. 27, 1956, § 3(a), inserted reference to subsection (e) of this section.

Sub. (a)(2). Act Apr. 27, 1956, § 3(c)(1), substituted “an indefinite period” for “a period of not more than five years”.

Subsecs. (e) to (i). Act Apr. 27, 1956, § 3(b), added subsec. (e) and redesignated former subsecs. (e) to (h) as (f) to (i), respectively.


Subsec. (a)(2). Act Feb. 28, 1948, struck out “any such commission” before “may be terminated”, and “in his discretion” after “at any time”.

Subsec. (b). Act Feb. 28, 1948, provided for grade and number of original appointments.

Subsecs. (c) to (f). Act Feb. 28, 1948, added subsecs. (c) and (d) and redesignated former subsecs. (c) and (d) as (e) and (f), respectively. Former subsecs. (e) and (f) redesignated (g) and (h).

Sub. (g). Act Feb. 28, 1948, redesignated former subsec. (e) as (g) and changed reference in text from “subsection (c) of this section” to “subsection (d) of this section”, and “subsection (d) of this section” to “subsection (g) of this section”.

Subsec. (h). Act Feb. 28, 1948, redesignated former subsec. (f) as (h).

1946—Subsec. (b). Act July 3, 1946, authorized appointment of additional officers to grades above that of senior assistant but not above that of director, and limits the number so appointed to 20.


EFFECTIVE DATE OF 1979 AMENDMENT


EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(a) of Pub. L. 86–415 provided that: “The amendments made by sections 2 and 5(b) [amending this section and section 210 of this title] shall become effective July 1, 1960.”

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 859a of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS


Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 508(b) of Pub. L. 96–58 which is classified to section 3501 of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 508(b) of Pub. L. 96–58 which is classified to section 3508(b) of Title 20, Education.

DELEGATION OF FUNCTIONS

Functions of President delegated to Secretary of Health and Human Services and Surgeon General, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1647, as amended, set out as a note under section 202 of this title.

PERSONAL SERVICES CONTRACTING

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:


TERM OF RESERVE COMMISSIONS IN EFFECT ON APRIL 27, 1956

Act Apr. 27, 1956, ch. 211, §3(c)(2), 70 Stat. 117, provided that: “The enactment of paragraph (1) of this subsection [amending this section] shall not affect the term of the commission of any officer in the Reserve Corps in effect on the date of such enactment [Apr. 27, 1956] unless such officer consents in writing to the extension of his commission for an indefinite period, in which event his commission shall be so extended without the necessity of a new appointment.”

§§ 209a, 209b. Omitted

CODIFICATION

Section 209a, act Dec. 22, 1944, ch. 660, title I, 58 Stat. 856, which related to number of regular commissioned nurses to be appointed, their grades, and their length of service for purposes of pay and pay periods, was not repeated in subsequent appropriation acts.

Section 209b, act Dec. 22, 1944, ch. 660, title I, 58 Stat. 857, which authorized appointment of fifty additional regular commissioned officers of which twenty-four were to be in grades above that of senior assistant, was not repeated in subsequent appropriation acts.


Section, act July 3, 1945, ch. 263, title II, 59 Stat. 370, provided for purposes of pay and pay period officers appointed to grades above that of senior assistant pursuant to section 209b of this title shall be considered as having had on date of appointment service equal to that of junior officer of grade to which appointed.

§ 209d. Appointment of osteopaths as commissioned officers

Graduates of colleges of osteopathy whose graduates are eligible for licensure to practice medicine or osteopathy in a majority of the States of the United States, or approved by a body or bodies acceptable to the Secretary, shall be eligible, subject to the other provisions of this Act, for appointment as commissioned medical officers in the Public Health Service.


REFERENCES IN TEXT

This Act, referred to in text, is act Feb. 28, 1948, ch. 83, 62 Stat. 38. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as a part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies or of in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 358(b) of title 20, Education.


§ 210. Pay and allowances

(a) Commissioned officers of Regular and Reserve Corps; special pay for active duty; incentive special pay for Public Health Service nurses

(1) Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.

(2) For provisions relating to the receipt of special pay by commissioned officers of the Regular and Reserve Corps while on active duty, see section 303a(b) of title 37.

(b) Purchase of supplies

Commissioned officers on active duty and retired officers entitled to retired pay pursuant to section 211(g)(3), 212, or 213a(a) of this title, shall be permitted to purchase supplies from the Army, Navy, Air Force, and Marine Corps at the same price as is charged officers thereof.

(c) Members of national advisory or review councils or committees

Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this chapter, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding ex officio members, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS-18 of the General Schedule, including traveltime; and while 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 of title 5 for persons in the Government service employed intermittently.
(d) Field employees

Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

(e) Additional pay for service at Gillis W. Long Hansen's Disease Center

Any civilian employee of the Service who is employed at the Gillis W. Long Hansen's Disease Center on April 7, 1986, shall be entitled to receive, in addition to any compensation to which the employee may otherwise be entitled and for so long as the employee remains employed at the Center, an amount equal to one-fourth of such compensation.

(f) Allowances included in fellowships

Individuals appointed under section 208(g) of this title shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows.

(g) Positions in professional, scientific and executive service; compensation; appointment

The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and seventy-nine positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health, not less than five shall be for the National Institute on Alcohol Abuse and Alcoholism for individuals engaged in research on alcohol abuse and alcoholism, not less than ten shall be for the National Center for Health Services Research, not less than twelve shall be for the National Center for Health Statistics, and not less than seven shall be for the National Center for Health Care Technology, in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific, professional and administrative personnel: Provided, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule nor more than (1) the highest rate of grade 16 of the General Schedule, or (2) in the case of two such positions, the rates specified, at the time the service in the position is performed, for level II of the Executive Schedule (5 U.S.C. 5313); and such rates of compensation for all positions included in this proviso shall be subject to the approval of the Director of the Office of Personnel Management. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Director of the Office of Personnel Management or such officers or agents as it may designate for this purpose.

(1) the highest rate of grade 18 of the General Schedule, or (2) in the case of two such positions, the rates specified, at the time the service in the position is performed, for level II of the Executive Schedule (5 U.S.C. 5313); and such rates of compensation for all positions included in this proviso shall be subject to the approval of the Director of the Office of Personnel Management. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Director of the Office of Personnel Management or such officers or agents as it may designate for this purpose.

(2) A commissioned medical officer in the Regular or Reserve Corps shall while on active duty be paid special pay under section 302(a)(4) of title 37 for any period during which the officer is providing obligated service under (i) section 234(e) of this title, or (iii) section 234(f) of this title (as such section was in effect prior to October 1, 1977, and August 13, 1981).

Any civilian employee of the Service who is employed at the Gillis W. Long Hansen's Disease Center on April 7, 1986, shall be entitled to receive, in addition to any compensation to which the employee may otherwise be entitled and for so long as the employee remains employed at the Center, an amount equal to one-fourth of such compensation.

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tive special pay in the same amounts as, and under the same terms and conditions which apply to, the incentive special pay now or hereafter paid to commissioned nurse officers of the Armed Forces under chapter 5 of title 37.


1985—Subsec. (a)(2). Pub. L. 99–117 substituted “(A)” Except as provided in subparagraph (B), commissioned

“Whenever any noncommissioned officer or

which not less than seventy-three shall be for the Na-

entific or professional personnel’’.

1950—Subsec. (g). Act Aug. 9, 1950, struck out “and

substituted “(other than an officer serving in the In-

85–462, substituted “eighty-five positions, of which

National Institutes of Health” for “sixty positions”.

1956—Subsec. (g). Act June 29, 1956, substituted “$20,000” for “$15,000”.

1955—Subsec. (g). Act Aug. 1, 1955, increased from thirty to sixty the number of positions which the Admin-

istrator may establish in the professional and sci-

entific service.

1950—Subsec. (b). Act Aug. 9, 1950, struck out “and

may be granted leaves of absence without any deduc-

from their pay” after “allotments from their pay’’ in

first sentence.

Subsec. (c). Act Aug. 15, 1950, §3(e), made provisions applicable to members of all national advisory coun-

Subsec. (g). Act Aug. 15, 1950, §4(b), added subsec. (g).


Subsec. (b). Act Oct. 12, 1949, redesignated subsec. (c) as (b) and repealed former subsec. (b) relating to Re-

serve officers.

Subsec. (c). Act Oct. 12, 1949, redesignated subsec. (e) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Act Oct. 12, 1949, redesignated subsec. (f) as (d) and repealed former subsec. (d) relating to female

commissioned officers and defining “dependent’’.

Subsec. (e). Act Oct. 12, 1949, redesignated subsec. (g) as (e) and struck out references to allowances. Former

subsec. (e) redesignated (c).


Subsecs. (g), (h), Act Oct. 12, 1949, redesignated sub-

sec. (g) and (h) as (e) and (f), respectively.

1948—Subsec. (b). Act Feb. 28, 1948, inserted “except

as otherwise provided by law’’.

Subsec. (e). Acts June 16, 1948, §4(d), and June 24, 1948,

§4(d), made section applicable to the National Advisory

Heart Council and increased the per diem of all mem-

 bers from $25 to $50, and made section applicable to the

National Advisory Dental Research Council, respec-

tively.

Subsec. (h). Act Feb. 28, 1948, substituted “section

209(f) of this title’’ for “section 209(d) of this title’’. 

1946—Subsec. (e). Act July 3, 1946, inserted “members

of the National Advisory Mental Health Council’’.

CHANGE OF NAME

Reference to the Gillis W. Long Hansen’s Disease Center deemed to refer to the National Hansen’s Dis-

ease Programs Center, pursuant to section 2 of Pub. L. 107–220, set out as a note under section 247e of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 17002(a)(2) of Pub. L. 99–272 provided that:

“The amendment made by paragraph (1) [amending this

section] shall take effect as of October 7, 1986.’’

EFFECTIVE DATE OF 1985 AMENDMENT

Section 3(b) of Pub. L. 99–117 provided that: “The

amendment made by subsection (a) [amending this section]

shall not diminish any benefits under an agree-

ment entered into before the date of enactment of this Act (Oct. 7, 1985) by a commissioned medical officer in

the Regular Corps or the Reserve Corps of the Public

Health Service.’’

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87–793 effective first day of

first pay period which begins on or after Oct. 11, 1962, see

section 1008 of Pub. L. 87–793.

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see

section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Al-

lowances of the Uniformed Services.
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Effective Date of 1960 Amendment
Amendment by Pub. L. 86–415 effective July 1, 1960, see section 8(a) of Pub. L. 86–415, set out as a note under section 209 of this title.

Effective Date of 1958 Amendments
Amendment by Pub. L. 85–929 effective Sept. 6, 1958, see section 6(a) of Pub. L. 85–929, set out as a note under section 342 of Title 21, Food and Drugs.

Amendment by Pub. L. 85–462 effective June 29, 1958, see section 17(b) of Pub. L. 85–462.

Effective Date of 1956 Amendment
Amendment by act July 31, 1956, effective at beginning of first pay period commencing after June 30, 1956, see section 120 of act July 31, 1956.

Effective Date of 1950 Amendment
Section 3(a) of act Aug. 9, 1950, provided that: "Sections 1 and 2 of this Act (amending this section and enacting section 210–1 of this title) shall become effective on July 1, 1950."

Effective Date of 1949 Amendment
Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 854a of Title 33, Navigation and Navigable Waters.

References
Act July 31, 1956, ch. 804, title I, §117(b), 70 Stat. 741, cited as a credit to this section, which amended subsec. (g) of this section to increase the salary rates, was repealed by Pub. L. 88–426, title III, §305(b), Aug. 14, 1964, 78 Stat. 422.

Transfer of Functions

Functions of Public Health Service, Surgeon General of the Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 209 of this title, Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 89–58 which is classified to section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title, Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953, Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96–48 which is classified to section 3508(b) of Title 20.

Delegation of Functions
Functions of President delegated to Secretary of Health and Human Services, see Ex. Ord. No. 11140, eff. Jan. 30, 1964, 29 F.R. 1637, as amended, set out as a note under section 209 of this title.

Termination of Advisory Committees
Pub. L. 93–641, §6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

References in Other Laws to GS–16, 17, or 18 Pay Rates
References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 (title I, §101(c)(1)) of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

Maximum Pay and Allowances for Specific Fiscal Years
Pub. L. 100–436, title II, §208, Sept. 20, 1988, 102 Stat. 1699, provided in part that: "No funds appropriated for the fiscal year ending September 30, 1989, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters for the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I (5 U.S.C. 5312) annual rate of basic pay".

Similar provisions were contained in the following prior appropriation acts:

Nurses and Allied Health Professionals
Pub. L. 100–436, title II, §214, Sept. 20, 1988, 102 Stat. 1700, provided that: "Funds made available for fiscal year 1989 and hereafter to the National Institutes of Health shall be available for payment of nurses and allied health professionals using pay, schedule options, benefits, and other authorities as provided for the nurses of the Veterans' Administration under 38 U.S.C. chapter 73."

§ 210–1. Annual and sick leave
(a) Regulations
In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: Provided, That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.


(d) Definitions
For purposes of this section the term "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year.

(July 1, 1944, ch. 373, title II, §219, as added Aug. 9, 1950, ch. 654, §2, 64 Stat. 426; amended Pub. L.
PARTIAL REPEAL OF SUBSECTION (d)

Subsection (d) of this section was repealed by Pub. L. 87–649, §14b, Sept. 7, 1962, 76 Stat. 499, insofar as it was applicable to the last sentence of subsection (c) of this section which authorized a lump-sum payment to an officer credited with unused accumulated and accrued annual leave. See section 501 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS
1979—Subsec. (c). Pub. L. 96–76, repealed subsec. (c) which set forth limitations on granting of annual leave under subsec. (a) of this section.
1962—Subsec. (b). Pub. L. 87–649 repealed subsec. (b) which required forfeiture of all pay and allowances of an officer absent without leave. See section 503 of Title 37, Pay and Allowances of the Uniformed Services.

Effective Date of 1962 Amendment

Resulted in Section 210b

Section effective July 1, 1950, see section 3(a) of act Aug. 9, 1950, set out as an Effective Date of 1950 Amendment note under section 210 of this title.

Transfer of Functions
Functions of Public Health Service, of Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare re-designated Secretary of Health and Human Services by section 502(b) of Pub. L. 98–20, set out as a note under section 3508(b) of Title 20, Education.

Delegation of Functions
Functions of President delegated to Secretary of Health and Human Services, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, as amended, set out as a note under section 202 of this title.

Compensation for Prior Accumulated and Accrued Leave: Limitation Inapplicable to Officers on Terminal Leave Prior to July 1, 1950
Section 3(b), (c) of act Aug. 9, 1950, provided that any officer credited with more than sixty days of accumulated and accrued leave on June 30, 1949, be compensated for so much of such leave as exceeds sixty days, that such compensation be due and payable on July 1, 1950, and that the provisions of this Act not apply to any officer on terminal leave preceding separation, retirement, or release from active duty.

Availability of Funds
Section 4 of act Aug. 9, 1950, provided for the availability of funds for payment of compensation for prior accumulated and accrued leave for any officer under section 3 of this Act.

Leave Regulations
Act Aug. 9, 1950, ch. 654, §5, 64 Stat. 427, provided that: “Except insofar as the provisions of this Act [enacting this section, amending section 210 of this title, and enacting provisions set out as notes under this section and section 210 of this title] are inconsistent therewith, leave regulations adopted prior to the enactment of this Act [Aug. 9, 1950], pursuant to the Public Health Service Act [this chapter], shall remain in effect until repealed, amended, or superseded.’’
temporarily assigned to a position pursuant to section 206(c) of this title, the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

(e) Absence of vacancy in grade as affecting promotion

The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 209 of this title, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

(f) Vacancy in grade as affecting maximum number for each category

Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) of this section for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 207(d) of this title; and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one.


PRIOR PROVISIONS

A prior section 209 of act July 1, 1944, was renumbered section 208 and classified to section 210 of this title.

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-76 substituted warrant officer (W–1) for assistant.

EFFECTIVE DATE OF 1979 AMENDMENT


TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, set out as a note under section 19 of this title.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 208 of this title.


THE PUBLIC HEALTH AND WELFARE

§211. Promotion of commissioned officers

(a) Permanent or temporary promotions; examination

Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

(b) Promotion to certain grades only to fill vacancies; regulations; “restricted grade” defined

The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a “restricted grade”.

(c) Examinations

Examinations to determine qualification for permanent promotions may be either non-competitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be non-competitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Permanent promotions to qualified officers on length of service

Officers of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the warrant officer (W–1) grade, chief warrant officer (W–2) grade, chief warrant officer (W–3) grade, chief warrant officer (W–4) grade, and junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years
of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Promotion of professional category officers to fill certain vacancies

Officers in a professional category of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) Reexamination upon failure of promotion; effective date of promotion

If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) of this section fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e) of this section), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g) Separation from service upon failure of promotion

If, for reasons other than physical disability, an officer of the Regular Corps in the warrant officer (W–1) grade or junior assistant grade is found pursuant to subsection (c) of this section not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the chief warrant officer (W–2), chief warrant officer (W–3), or senior assistant grade, full grade, or junior assistant grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

1. If in the chief warrant officer (W–2) or assistant grade he shall be separated from the Service and paid six months’ basic pay and allowances;

2. If in the chief warrant officer (W–3) or senior assistant grade he shall be separated from the Service and paid one year’s basic pay and allowances;

3. If in the full grade he shall be considered not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law)—

   (A) in the case of an officer who first became a member of a uniformed service before September 8, 1980, at the rate of 2 1/2 percent of the retired pay base determined under section 1406(h) of title 10 for each year, not in excess of 30, of his active commissioned service in the Service; or

   (B) in the case of an officer who first became a member of a uniformed service on or after September 8, 1980, at the rate determined by multiplying—

      (i) the retired pay base determined under section 1407 of title 10; by

      (ii) the retired pay multiplier determined under section 1409 of such title for the number of years of his active commissioned service in the Service.

(h) Separation from service upon refusal to stand examination

If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) Review of record; separation from service

At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months’ pay and allowances.

(j) Determination of order of seniority

(1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2) of this subsection, by the relative length of time spent in active service after the effective date of each such officer’s original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater:

   (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade or over seventeen years if the appointment is to the senior grade.

(k) Temporary promotions; fill vacancy in higher grade; war or national emergency; selection of officers; termination of appointment

Any commissioned officer of the Regular Corps in any grade in any professional category
may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(l) Determination of requirements of Service by Secretary; assignment of Reserve Officers to professional categories; temporary promotions; termination of temporary promotions.

Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Secretary shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Secretary finds that the number of officers fixed under section 210(b)(c) of this title for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under section 210(b)(c) of this title) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Acceptance of promotion; oath and affidavit.

Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by section 3332 of title 5.


CROSS REFERENCE

In subsec. (m), “section 3332 of title 5” substituted for “the Act of December 11, 1926, as amended (5 U.S.C. 21a)” on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1986—Subsec. (g)(3). Pub. L. 96–348 added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) in the case of an officer who first became a member of a uniformed service before September 8, 1980, at the rate of 2 1/2 per centum of basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service; or

“(B) in the case of an officer who first became a member of a uniformed service on or after September 8, 1980, 2 1/2 per centum of the monthly retired pay base computed under section 1407(h) of title 10, for each year, not in excess of thirty, of his active commissioned service in the Service.”

1980—Subsec. (g)(3). Pub. L. 96–342 revised provisions into subpars. (A) and (B) and substituted provisions respecting computation of retired pay for officers who became members of the uniformed service before Sept. 8, 1980, and for officers who became members of the uniformed service on or after Sept. 8, 1980, for provisions respecting computation of retired pay for officers.


Subsec. (g). Pub. L. 96–76, §307(b), in provision before par. (1), inserted applicability to separation from Service of warrant officers and chief warrant officers subsequent to one examination or two examinations, respectively, in par. (1), inserted applicability to a chief warrant officer (W-2), and in par. (2), inserted applicability to a chief warrant officer (W-3).

1962—Subsec. (g). Pub. L. 87–649 substituted “basic pay” for “pay” in cls. (1) and (2).

1960—Subsec. (g). Pub. L. 86–415 substituted “of the basic pay of the permanent grade held by him at the time of retirement for each year” for “of his active duty pay at the time of retirement for each complete year” in cl. (3).

1956—Subsec. (d)(2). Act Apr. 27, 1956, struck out “pay period and for purposes of” before “seniority in grade”.


1948—Act Feb. 28, 1948, amended subsecs. (a) to (c) generally and added subsecs. (d) to (m).

EFFECTIVE DATE OF 1979 AMENDMENT


EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 191 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 854a of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and em-
shall be credited with one year for purposes of promotion and seniority in grade, except that no date of this section who is entitled to the credit received or will receive similar credit for his internship under other provisions of law. In the health and hospital construction activities.


Section, act Feb. 28, 1948, ch. 83, § 6(b)–(f), 62 Stat. 45, dealt with promotion of Public Health Service officers.

Savings Provision

Repeal not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94–412, set out as a note under section 1601 of Title 50, War and National Defense.

§ 211c. Promotion credit for medical officers in assistant grade

Any medical officer of the Regular Corps of the Public Health Service who—

(1) (A) was appointed to the assistant grade in the Regular Corps and whose service in such Corps has been continuous from the date of appointment or (B) may hereafter be appointed to the assistant grade in the Regular Corps, and

(2) had or will have completed a medical internship on the date of such appointment,

shall be credited with one year for purposes of promotion and seniority in grade, except that no such credit shall be authorized if the officer has received or will receive similar credit for his internship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date.

(July 1, 1944, ch. 373, title II, § 220, as added Apr. 30, 1956, ch. 223, § 3, 70 Stat. 121.)

References in Text

For “the effective date of this section”, referred to in text, see section 7 of act Apr. 30, 1956, which provided in part that this section shall become effective the first day of the month following the day of enactment, Apr. 30, 1956.

Transfer of Functions

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 508(b) of Pub. L. 94–412 which is classified to section 3508(b) of Title 20, Education.

§ 212. Retirement of commissioned officers

(a) Age; voluntariness; length of service; computation of retired pay

(1) A commissioned officer of the Service shall, if he applies for retirement, be retired on or after the first day of the month following the month in which he attains the age of sixty-four years. This paragraph does not permit or require the involuntary retirement of any individual because of the age of the individual.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) Except as provided in paragraph (6), a commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of 2½ per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d) of this section) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer’s attendance at
medical school or dental school or during his medical internship; plus

(iii) the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher, on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of title 37 on any date before June 1, 1958;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e) of this section), and who does not use, for purposes of a retirement annuity under subchapter III of chapter 83 of title 5, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and except as provided in paragraph (6), his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(6) The retired pay of a commissioned officer retired under this subsection who first became a member of a uniformed service after September 7, 1980, is determined by multiplying—

(A) the retired pay base determined under section 1407 of title 10; by

(B) the retired pay multiplier determined under section 1409 of such title for the number of years of service credited to the officer under paragraph (4).

(7) Retired pay computed under section 211(g)(3) of this title or under paragraph (4) or (5) of this subsection, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(b) Basic pay of highest temporary grade

For purposes of subsection (a) of this section, the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) Recall to active duty

A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a) of this section, be involuntarily recalled to active duty during such officer's commissioned service, (2) if an officer of the Regular Corps, be recalled to active duty at any time with his consent.

(d) "Active service" defined

The term "active service", as used in subsection (a) of this section, includes:

(1) all active service in any of the uniformed services;
(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included;
(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services; and
(4) service performed as a member of the Senior Biomedical Research Service established by section 237 of this title, except that, if there are more than 5 years of such service, only the last 5 years thereof may be included.

(e) Crediting of part of year

For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his retired pay pursuant to section 211(g)(3) of this title or paragraph (4) of subsection (a) of this section, each full month of service that is in addition to the number of full years of service credited to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(f) Retirement or separation for physical disability

For purposes of retirement or separation for physical disability under chapter 61 of title 10, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.

CODIFICATION

In subsec. (a)(4), "subchapter III of chapter 83 of title 5" substituted for "the Civil Service Retirement Act" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 657, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1986—Subsec. (a)(6). Pub. L. 99–348 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "In computing retired pay under paragraph (4) or (5) in the case of any commissioned officer who first became a member of a uniformed service on or after September 8, 1980, the monthly retired pay base computed under section 1407(h) of title 10 shall be used in lieu of using the basic pay of the highest grade held by him as such officer."

Subsec. (e). Pub. L. 98–94, §923(f), substituted "each full month of service that is in addition to the number of full years of service credited to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded" for "a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded."
1981—Subsec. (a)(1). Pub. L. 97–35 substituted "shall, if he applies for retirement, be retired on or after" for "shall be retired on", and substituted provisions relating to involuntary retirement as a result of age, for provisions relating to inapplicability to the Surgeon General.
Pub. L. 97–25 inserted provision that this paragraph does not apply to Surgeon General.
1980—Subsec. (a)(4). Pub. L. 96–342, §813(h)(2)(A), substituted "Except as provided in paragraph (6), "a" for "A."
Subsec. (a)(5). Pub. L. 96–342, §813(h)(2)(B), substituted "except as provided in paragraph (6), his" for "his".
1979—Subsec. (e). Pub. L. 96–76 struck out requirement respecting active service for purposes of credit.
1960—Pub. L. 86–415 amended section generally, and among other changes, authorized retirement of commissioned officers who have had less than 30 years of active service any time after the completion of 20 years of active service, permitted persons who have served as Deputy Surgeons General or Assistant Surgeons General for four or more years and who have had at least 20 years of active service to retire voluntarily at any time, provided for the recall to active duty of officers of the Reserve Corps entitled to retired pay under subsection (a) of this section during such times as the Corps constitutes a branch of the land or naval forces of the United States, authorized credit, for retirement purposes, of active service in the uniformed services and limited to five years the crediting of active service with the Public Health Service other than as a commissioned officer, and established the methods for computation of retired pay for active duty officers retiring for age or length of service.
Subsec. (b)(1). Act Apr. 27, 1956, §5(b), authorized crediting of noncommissioned service in the Service for purposes of retirement.
Subsec. (c). Act Apr. 27, 1956, §5(c), permitted recall of retired officers of the Regular Corps without their consent whenever the Regular Corps has military status, and authorized recall of retired officers of the Regular or Reserve Corps with their consent at any time.
1956—Subsec. (g). Act Aug. 10, 1956, provided for crediting of service for purposes of retirement or separation for physical disability under chapter 61 of title 10.
1949—Subsec. (a). Act Oct. 12, 1949, redesignated subsec. (b) as (a), substituted "subsection (b)" for "subsection (c)" and repealed former subsec. (a) relating to retirement for disability or disease.
Subsec. (b). Act Oct. 12, 1949, redesignated subsec. (c) as (b) and struck out reference to retirement for disability or disease. Former subsec. (b) redesignated (a).
Subsec. (c). Act Oct. 12, 1949, redesignated subsec. (d) as (c) and struck out reference to recovery from a disability. Former subsec. (c) redesignated (b).
Subsecs. (d) to (f). Act Oct. 12, 1949, redesignated subsecs. (e) to (g) as (d) to (f), respectively. Former subsec. (d) redesignated (c).
Subsecs. (g), (h). Act Oct. 12, 1949, redesignated subsec. (h) as (g) and amended subsection generally to relate to retirement or separation for physical disability. Former subsec. (g) redesignated (f).
Subsec. (c)(2). Act Feb. 28, 1948, made subdivision applicable to grade of Assistant Surgeon General.
Subsec. (d). Act Feb. 28, 1948, substituted "under the provisions of subsection (b) of this section" for "for age".
Subsecs. (g), (h). Act Feb. 28, 1948, added subsecs. (g) and (h).

CHANGE OF NAME


EFFECTIVE DATE OF 1990 AMENDMENT

Section 529 (title III, §304(c)) of Pub. L. 101–509 provided that: "Except as otherwise provided, the provisions of this section [enacting section 237 of this title and amending this section] shall be effective on the 90th day following the date of the enactment of this Act [Nov. 5, 1990]."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922(d) of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of Title 10, Armed Forces.
Amendment by section 923(f) of Pub. L. 98–94 applicable with respect to the computation of retired or retain pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of Title 10.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91–253 provided that: "The amendments made by this Act [amending this section] shall apply in the case of retired pay for any period after the month in which this Act is enacted [May 1970]."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(b) of Pub. L. 86–415 provided that: "The amendment made by section 4 [amending this section] shall become effective on the date of enactment of this Act [Apr. 8, 1960] in the case of commissioned officers of the Regular Corps of the Public Health Service, and on July 1, 1960, in the case of commissioned officers of the Reserve Corps of the Public Health Service."

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 854a of Title 33, Navigation and Navigable Waters.

SAVINGS PROVISION

Pub. L. 86–415, §8(c), (d), Apr. 8, 1960, 74 Stat. 36, provided that: "(c) An officer in the Regular Corps on active duty on the date of enactment of this Act [Apr. 8, 1960] may be
retired and have his retired pay computed under section 211 of the Public Health Service Act, as amended by this Act (this section), or, if he so elects, under such section as in effect prior to the date of enactment of this Act (Apr. 8, 1960).

“(d) The limitation under subsection (f) of section 211 of the Public Health Service Act, as amended by this Act (this section), on the amount of active service with the Public Health Service, other than as a commissioned officer, which may be counted for purposes of retirement or separation for physical disability, shall not apply in the case of any officer of the Reserve Corps of the Public Health Service on active duty on June 30, 1960.”

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.


DELEGATION OF FUNCTIONS

Functions of President delegated to Secretary of Health and Human Services, see Ex. Ord. No. 11140, eff. Jan. 30, 1964, 29 F.R. 1637, as amended, set out as a note under section 202 of this title.

COVERAGE UNDER CIVIL SERVICE RETIREMENT ACT

Creditable service for purposes of the Civil Service Retirement Act for certain commissioned officers of the Regular or Reserve Corps of the Public Health Service, see section 6(a), (b) of Pub. L. 86–415, set out as a note under section 3332 of Title 5, Government Organization and Employees.


§ 212b. Repealed. Apr. 27, 1956, ch. 211, §5(d), 70 Stat. 117

Section. act July 31, 1953, ch. 296, title II, §201, 67 Stat. 254, authorized recall of retired officers of the Service. See section 212(c) of this title.

§ 213. Military benefits

(a) Rights, privileges, immunities, and benefits accorded to commissioned officers or their survivors

Except as provided in subsection (b) of this section, commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers:

(1) in time of war;
(2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or
(3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) Award of decorations

The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

(c) Authority of Surgeon General

The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to officers, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

(d) Active service deemed active military service with respect to laws administered by Secretary of Veterans Affairs

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Secretary of Veterans Affairs (except the Servicemen’s Indemnity Act of 1951) and section 417 of this title.

(e) Active service deemed active military service with respect to laws administered by Secretary of Veterans Affairs

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Servicemembers Civil Relief Act (50 App. U.S.C. 501 et seq.).

(f) Active service deemed active military service with respect to anti-discrimination laws

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for purposes of all laws related to discrimination on the basis of race, color, sex, ethnicity, age, religion, and disability.

(July 1, 1944, ch. 373, title II, §212, 58 Stat. 689; July 15, 1954, ch. 507, §14(a), 68 Stat. 481; Aug. 1,
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TITLED 42—THE PUBLIC HEALTH AND WELFARE §213


REFERENCES IN TEXT
The Servicemen’s Indemnity Act of 1951, referred to in subsec. (d), is act Apr. 23, 1951, ch. 39, pt. I, 65 Stat. 33, which was classified generally to subchapter II (§491 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans’ Relief, and was repealed by act Aug. 1, 1956, ch. 837, title V, §502(a), 70 Stat. 886.

The Servicemembers Civil Relief Act, referred to in subsec. (e), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

AMENDMENTS
2003—Subsec. (e). Pub. L. 108–366 substituted “Servicemembers Civil Relief Act” for “Soldiers’ and Sailors’ Civil Relief Act of 1940”.


1966—Act Aug. 1, 1956, and 1955 amendments generally to extend all rights, privileges, immunities, and benefits provided for commissioned officers of the Army or their surviving beneficiaries to commissioned officers of the Service, with the exception of retired pay and uniform allowances, when performing duty under certain circumstances, and to provide that active service of commissioned officers shall be deemed to be active military service in the Armed Forces for the purposes of all laws administered by the Veterans’ Administration (except the Servicemen’s Indemnity Act of 1951) and section 417 of this title.


Effective Date of 1956 Amendment; Applicability
Act Aug. 1, 1956, ch. 837, title V, §501(b)(2), 70 Stat. 882, provided that: “The amendment made by this subsection [amending this section] (A) shall apply only with respect to service performed on or after July 4, 1952, (B) shall not be construed to affect the entitlement of any person to benefits under the Veterans’ Re-Adjustment Assistance Act of 1952 [act July 16, 1952, ch. 788, 66 Stat. 633]. (C) shall not be construed to authorize any payment under section 202(1) of the Social Security Act [section 402(1) of this title], or under Veterans Regulation Numbered 9(a), for any death occurring prior to January 1, 1957, and (D) shall not be construed to authorize payment of any benefits for any period prior to January 1, 1957.”

Transfer of Functions
For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 466(b), 535(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 23, 2002, as modified, set out as a note under section 522 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service and functions of all agencies of or in Public Health Service transferred to the Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–48 which is classified to section 3508(b) of Title 20, Education.

Recomputation of Social Security Benefits for Officers Entitled to Old-Age Insurance Benefits Prior to January 1, 1957, or for Survivors of Officers Who Died Prior to January 1, 1957
Act Aug. 1, 1956, ch. 837, title V, §501(b)(3), 70 Stat. 882, provided that: “(A) who performed active service (i) as a commissioned officer of the Public Health Service at any time during the period beginning July 4, 1952, and ending December 31, 1956, or (ii) as a commissioned officer of the Coast and Geodetic Survey at any time during the period beginning July 29, 1945, and ending December 31, 1956; and

“(B)(i) who became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] prior to January 1, 1957, or

“(ii) who died prior to January 1, 1957, and whose widow, child, or parent is entitled for the month of January 1957, on the basis of his wages and self-employment income, to a monthly survivor’s benefit under section 202 of such act [section 402 of this title]; and

“(C) any part of whose service described in subparagraph (A) was not included in the computation of his primary insurance amount under section 215 of such act [section 415 of this title] but would have been included in such computation if the amendment made by paragraph (1) of this subsection or paragraph (1) of subsection (d) had been effective prior to the date of such computation.

the Secretary of Health, Education, and Welfare [now Health and Human Services] shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by him or (if he dies without filing such an application) by any person entitled to monthly survivor’s benefits under section 202 of such act [section 402 of this title] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner, provided in title II of the Social Security Act [sections 401 to 425 of this title] as in effect at the time of the last previous computation or recomputation of such individual’s primary insurance amount and, as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this paragraph shall be regarded as a recomputation under section 215(f) of the Social Security Act [section 415(f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application was filed, but in no case for any month before January 1957.”

Disposition of Remains of Deceased Personnel
Recovery, care, and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

Burial of Certain Commissioned Officers
Act Apr. 30, 1956, ch. 227, 70 Stat. 124, provided: “That burial in national cemeteries of the remains of commissioned officers of the United States Public Health Service who were detailed for duty with the Army or Navy during World War I pursuant to the act of July 1, 1902 (32 Stat. 712, 713), as amended, and Executive Order Numbered 2571 dated April 3, 1917, and of the wife, widow, minor child and, in the discretion of the Secretary of the Army, unmarried adult child of these officers is authorized: Provided, That the remains of the
wife, widow, and children may, in the discretion of the Secretary of the Army, be removed from a national cemetery proper and interred in the post section of a national cemetery if, upon death, the related officer is not buried in the same or an adjoining gravesite."

DELegATION OF AUTHORITY
Memorandum of President of the United States, Dec. 30, 1992. 58 F.R. 3485, provided:
Memorandum for the Secretary of Defense, the Secretary of Health and Human Services.
The authority of the President under section 212(b) of the Public Health Service Act (42 U.S.C. 213(b)) is hereby delegated to the Secretary of Defense. In the exercise of that authority, the Secretary of Defense shall ensure that no military ribbon, medal, or decoration is awarded to an officer of the Public Health Service without the approval of the Secretary of Health and Human Services.

The Secretary of Defense shall ensure the publication of this memorandum in the Federal Register.

GEORGE BUSH.

§ 213a. Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries: exercise of authority by Secretary or designee

(a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1370, 1371, 1375, and 1376(a).1

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Retired Serviceman’s Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 213 of this title.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2604, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposits of Savings.

(12) Section 1552, Correction of military records: claims incident thereto.

(13) Section 1553, Review of discharge or dismissal.

(14) Section 1554, Review of retirement or separation without pay for physical disability.

(15) Section 1124, Cash awards for suggestions, inventions, or scientific achievements.

(16) Section 1582, Reimbursement for adoption expenses.

(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.

(b) The authority vested by title 10 in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health and Human Services or his designee.

(1) Section 1036, Escorts for dependents of members separated for dependent abuse.

(2) Section 1036, escorts for dependents of members separated for dependent abuse.

(3) Section 1036, escorts for dependents of members separated for dependent abuse.

(4) Section 1036, escorts for dependents of members separated for dependent abuse.

(5) Section 1036, escorts for dependents of members separated for dependent abuse.

(6) Section 1036, escorts for dependents of members separated for dependent abuse.

(7) Section 1036, escorts for dependents of members separated for dependent abuse.

(8) Section 1036, escorts for dependents of members separated for dependent abuse.

(9) Section 1036, escorts for dependents of members separated for dependent abuse.

(10) Section 1036, escorts for dependents of members separated for dependent abuse.

(11) Section 1036, escorts for dependents of members separated for dependent abuse.

(12) Section 1036, escorts for dependents of members separated for dependent abuse.

(13) Section 1036, escorts for dependents of members separated for dependent abuse.

(14) Section 1036, escorts for dependents of members separated for dependent abuse.

(15) Section 1036, escorts for dependents of members separated for dependent abuse.

(16) Section 1036, escorts for dependents of members separated for dependent abuse.

(17) Section 1036, escorts for dependents of members separated for dependent abuse.

1 See References in Text note below.
Health Service who have been ordered to active duty for training for a period of more than 30 days, inserted a reference to section 1374 of title 10 in cl. (2), as renumbered, struck out “Care of the Dead” after “Benefits” in cl. (5), as renumbered, and added cl. (6).

**Effective Date of 1997 Amendment**

Section 633(c) of Pub. L. 106–65 provided that: “The amendments made by this section [amending this section and former section 857a of Title 33, Navigation and Navigable Waters] shall apply only to adoptions that are completed on or after the date of the enactment of this Act [Nov. 18, 1997].”

**Effective Date of 1980 Amendment**


**Effective Date of 1963 Amendment**


**Transfer of Functions**

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 3508(b) of Title 20, Education.

**Designation of Beneficiary Made Before January 1, 1956**

Designation of beneficiary made before Jan. 1, 1956, considered as the designation of a beneficiary for the purposes of section 4 of Pub. L. 86–861, which amended this section, see section 31 of Pub. L. 86–861, set out as a note under section 1374 of Title 10, Armed Forces.

**§ 214. Presentation of United States flag upon retirement**

(a) Presentation of flag

Upon the release of an officer of the commissioned corps of the Service from active commissioned service for retirement, the Secretary of Health and Human Services shall present a United States flag to the officer.

(b) Multiple presentations not authorized

An officer is not eligible for presentation of a flag under subsection (a) of this section if the officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) No cost to recipient

The presentation of a flag under this section shall be at no cost to the recipient.

(70 Stat. 257, related to allowances for use of taxicabs, etc., around duty posts. See section 406 of Title 37, Pay and Allowances of the Uniformed Services.)

**Prior Provisions**


**Effective Date**

Section applicable with respect to releases from service described in section on or after Oct. 1, 1969, see section 652(d) of Pub. L. 106–65, set out as a note under section 12805 of Title 10, Armed Forces.


Section, act July 31, 1953, ch. 296, title II, §204, 67 Stat. 257, related to allowances for use of taxicabs, etc., around duty posts. See section 406 of Title 37, Pay and Allowances of the Uniformed Services.

**§ 215. Detail of Service personnel**

(a) Other Government departments

The Secretary is authorized, upon the request of the head of an executive department, to detail officers or employees of the Service to such department for duty as agreed upon by the Secretary and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriations and reimbursement may be made as agreed upon by the Secretary and the head of the executive department concerned. Officers detailed for duty with the Army, Air Force, Navy, or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) State health or mental health authorities

Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or a political subdivision thereof in work related to the functions of the Service.

(c) Congressional committees and nonprofit educational, research, or other institutions engaged in health activities for special studies and dissemination of information

The Surgeon General may detail personnel of the Service to any appropriate committee of the Congress or to nonprofit educational, research 1

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1So in original. Probably should be followed by a comma.
§ 215 TITLE 42—THE PUBLIC HEALTH AND WELFARE

Subsec. (d). Pub. L. 96–76, § 309(b), inserted provisions relating to agreements by States, etc., for reimbursement upon detail of personnel.

1949—Subsec. (d). Act Oct. 12, 1949, substituted “the computation of basic pay” for “longevity pay”.

1946—Subsec. (b). Act July 3, 1946, provided for detail of personnel on request from a State mental health authority.

Effective Date of 1949 Amendment

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 854a of Title 33, Navigation and Navigable Waters.

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 466(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 22, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 410, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3586(b) of Title 20, Education.


Transfers of Personnel Occasioned by Creation of the Environmental Protection Agency


“(1) Subject to such requirements as the Civil Service Commission may prescribe, any commissioned officer of the Public Health Service (other than an officer who retires under section 211 of the Public Health Service Act [section 212 of this title] after his election but prior to his transfer pursuant to this paragraph and paragraph (2) who, upon the day before the effective date of Reorganization Plan Numbered 3 of 1970 (hereinafter in this subsection referred to as the ‘plan’), is serving as such officer (A) primarily in the performance of functions transferred by such plan to the Environmental Protection Agency or its Administrator (hereinafter in this subsection referred to as the ‘Agency’ and the ‘Administrator’; respectively), may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Agency; or (B) primarily in the performance of functions determined by the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the ‘Secretary’) to be materially related to the functions transferred, may, if authorized by agreement between the Secretary and the Administrator, and if such officer so elects, acquire such status and be so transferred.

“(2) An election pursuant to paragraph (1) shall be effective only if made in accordance with such procedures as may be prescribed by the Civil Service Commission.
mission (A) before the close of the 24th month after the effective date of the plan [Dec. 2, 1970], or (B) in the case of a commissioned officer who would be liable for transfer and service under the Military Selective Service Act of 1967 [section 451 et seq. of Title 50, App., War and National Defense] but for the operation of section 6(b)(3) thereof [50 U.S.C. App. 656(b)(3)], (before if it occurred after the close of the 24th month but before the close of the 90th day after the day upon which he has completed his 24th month of service as such officer.

“(3)(A) Except as provided in subparagraph (B), any commissioned officer of the Public Health Service who, pursuant to paragraphs (1) and (2), elects to transfer to a position in the Agency which is subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code (hereinafter in this subsection referred to as the ‘transferring officer’), shall receive a pay rate of the General Schedule grade of such position which is not less than the sum of the following amounts computed and paid pursuant to subsection (b):

“(i) the basic pay, the special pay, the continuation pay, and the subsistence and quarters allowances, to which he is annually entitled as a commissioned officer of the Public Health Service pursuant to title 37, United States Code;

“(ii) the amount of Federal income tax, as determined by estimate of the Secretary, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free;

“(iii) an amount equal to the biweekly average cost of the coverages designated ‘high option, self and family’ under the Government-wide Federal employee health benefits programs plans, multiplied by twenty-six; and

“(iv) an amount equal to 7 per centum of the sum of the amounts determined under clauses (i) through (iii), inclusive.

“(B) A transferring officer shall in no event receive, pursuant to subparagraph (A), a pay rate in excess of the maximum rate applicable under the General Schedule to the class of position, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free.

“(6) A transferring officer shall be credited, on the day of his transfer pursuant to his election under paragraphs (1) and (2), with one hour of sick leave for each week of active service, as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title].

“(B) The annual leave to the credit of a transferring officer on the day before the day of his transfer, shall, on the day of transfer, be transferred to his credit in the Agency on an adjusted basis under regulations prescribed by the Civil Service Commission. The portion of such leave, if any, that is in excess of the sum of (i) 280 hours of hours that have accrued to the credit of the transferring officer during the calendar year then current and which remain unused, shall thereafter remain to his credit until used, and shall be reduced in the manner described by subsection (c) of section 6304 of title 5, United States Code.

“(5) A transferring officer who is required to change his official station as a result of his transfer under this subsection shall be paid such travel, transportation, and related expenses and allowances, as would be provided pursuant to subchapter II of chapter 57 of title 5, United States Code, in the case of a civilian employee so transferred in the interest of the Government. Such officer shall not (either at the time of such transfer or upon a subsequent separation from the competitive service) be deemed to have separated from, or changed permanent station within, a uniformed service for purposes of section 404 of title 37, United States Code.

“(6) Each transferring officer who prior to January 1, 1958, was insured pursuant to the Federal Employees’ Group Life Insurance Act of 1954, and who subsequently waived such insurance, shall be entitled to become insured under chapter 87 of title 5, United States Code, upon his transfer to the Agency regardless of age and insurability.

“(7)(A) Effective as of the date a transferring officer acquires competitive status as an employee of the Agency, there shall be considered as the civilian service of such officer for all purposes of chapter 83, title 5, United States Code, (i) his active service as defined by section 212(d) of this title, or (ii) any period for which he would have been entitled, upon his retirement as a commissioned officer of the Public Health Service, to receive retired pay pursuant to section 211(a)(4)(B) of such Act [section 212(a)(4)(B) of this title]; however, no transferring officer may become entitled to benefits under both subchapter III of such chapter and title II of the Social Security Act [section 401 et seq. of this title] based on service as such a commissioned officer performed after 1958, but the individual (or his survivors) may irrevocably elect to waive benefit credit for the service under one such law to secure credit under the other.

“(B) A transferring officer on whose behalf a deposit is required to be made by subparagraph (C) as a result of his transfer to a competitive position in the Agency under paragraphs (1) and (2), is separated from Federal service or transfers to a position not covered by subchapter III of chapter 53 of title 5, United States Code, shall not be entitled, nor shall his survivors be entitled, to a refund of any amount deposited on his behalf in accordance with this section. In the event he transfers, after transfer under paragraphs (1) and (2), to a position covered by another Government staff requirement system under which credit is allowable for service with respect to which a deposit is required under subparagraph (C), no credit shall be allowed under such subchapter III with respect to such service.

“(C) The Secretary shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, on behalf of and to the credit of such transferring officer, an amount equal to that which such individual would be required to deposit in such fund to cover the years of service credited to him for purposes of his retirement under subparagraph (A), had such service been service as an employee as defined in section 8331(1) of title 5, United States Code. The amount so required to be deposited with respect to any transferring officer shall be computed on the basis of the sum of each of the amounts described in paragraph (3)(A) which were received by, or accrued to the benefit of, such officer during the years so credited. The deposits which the Secretary is required to make under this subparagraph with respect to any transferring officer shall be made within two years after the date of his transfer as provided in paragraphs (1) and (2), and the amounts due under this subparagraph shall include interest computed from the period of service credited to the date of payment in accordance with section 833(e) of title 5, United States Code.

“(8)(A) A commissioned officer of the Public Health Service, who, upon the day before the effective date of the plan, is on active service therewith primarily as a result of the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide.

§ 216. Regulations
(a) Prescription by President: appointments, retirement, etc.

The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission, titles, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service.
(b) Promulgation by Surgeon General; administration of Service

The Surgeon General, with the approval of the Secretary, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) Preference to school of medicine

No regulation relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine.


AMENDMENTS

1949—Subsec. (b). Act Oct. 12, 1949, struck out references to travel and transportation of household goods and effects.

Effective Date of 1949 Amendment

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 854a of Title 33, Navigation and Navigable Waters.

Transfer of Functions


Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.


Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 508(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

Delegation of Functions

Functions of President delegated to Secretary of Health and Human Services, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1357, as amended, set out as a note under section 202 of this title.

§217. Use of Service in time of war or emergency

In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest. In time of war, or of emergency involving the national defense proclaimed by the President, he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such emergency or such part thereof as the President shall prescribe, the commissioned corps (a) shall constitute a branch of the land and naval forces of the United States, (b) shall, to the extent prescribed by regulations of the President, be subject to the Uniform Code of Military Justice [10 U.S.C. 801 et seq.], and (c) shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief.

(July 1, 1944, ch. 373, title II, §216, 58 Stat. 690; Apr. 27, 1956, ch. 211, §1, 70 Stat. 116.)

References in Text

The Uniform Code of Military Justice, referred to in text, is classified to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

Amendments

1956—Act Apr. 27, 1956, empowered President to declare commissioned corps of the Service to be a military service in time of emergency involving national defense, and substituted “the Uniform Code of Military Justice” for “the Articles of War and to the Articles for the Government of the Navy”.

Repeal of Prior Acts Continuing Section


Transfer of Functions


Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 508(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

Executive Order No. 9575

Ex. Ord. No. 9575, eff. June 28, 1945, 10 F.R. 7895, which declared the Commissioned Corps of the Public Health Service to be a military service subject to the Articles for the Government of the Navy as therein prescribed, was superseded by Ex. Ord. No. 10349, eff. Apr. 28, 1952, 17 F.R. 3769.

Executive Order No. 10349

Ex. Ord. No. 10349, eff. Apr. 28, 1952, 17 F.R. 3769, superseded Ex. Ord. No. 9575, and subjected the Commissioned Corps of the Public Health Service to the provisions of the Uniform Code of Military Justice until June 1, 1952.

Executive Order No. 10356

Ex. Ord. No. 10356, eff. June 2, 1952, 17 F.R. 4967, amended Ex. Ord. No. 10349, and extended from June 1, 1952, to June 15, 1952, the period during which the Commissioned Corps of the Public Health Service was subject to the provisions of the Uniform Code of Military Justice.

Executive Order No. 10362

Ex. Ord. No. 10362, eff. June 14, 1952, 17 F.R. 5413, amended Ex. Ord. No. 10356, and extended from June 15, 1952, to June 30, 1952, the period during which the Commissioned Corps of the Public Health Service was subject to the Uniform Code of Military Justice.
§ 217a. Advisory councils or committees

(a) Appointment; purpose

The Secretary may, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, from time to time, appoint such advisory councils or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions.

(b) Compensation and allowances of members not full-time employees of United States

Members of any advisory council or committee appointed under this section who are not regular full-time employees of the United States shall, while attending meetings or conferences of such council or committee or otherwise engaged on business of such council or committee receive compensation and allowances as provided in section 210(c) of this title for members of national advisory councils established under this chapter.

(c) Delegation of functions

Upon appointment of any such council or committee, the Secretary may delegate to such council or committee such advisory functions relating to grants-in-aid for research or training projects or programs, in the areas or fields with which such council or committee is concerned, as the Secretary determines to be appropriate.

(1962, eff. June 30, 1962, 7 F.R. 5929, amended Ex. Ord. No. 10362, and extended from June 30, 1962, to July 3, 1962, the period during which the Commissioned Corps of the Public Health Service was subject to the Uniform Code of Military Justice.)


Subsec. (c), Pub. L. 91–515, §601(a)(3), (c)(2), inserted “council or” before “committee” wherever appearing, and “or programs” after “projects”.

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title, Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

TERMINATION OF ADVISORY COMMITTEES; REPORT BY SECRETARY TO CONGRESSIONAL COMMITTEES RELATING TO TERMINATION

Pub. L. 93–641, §6, Jan. 4, 1975, 88 Stat. 2276, provided that:

“(a) An advisory committee established by or pursuant to the Public Health Service Act (section 201 et seq. of this title), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 [sections 2689 et seq. and 6001 et seq. of this title], or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [section 4541 et seq. of this title] shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after the date of the enactment of this Act [Jan. 4, 1975].”

“(b) The Secretary of Health, Education, and Welfare shall report, within one year after the date of the enactment of the Act [Jan. 4, 1975], to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the purpose and use of each advisory committee established by or pursuant to the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and (2) his recommendations respecting the termination of each such advisory committee.”

§ 217a–1. Advisory committees; prohibition of consideration of political affiliations

All appointments to advisory committees established to assist in implementing the Public Health Service Act [42 U.S.C. 201 et seq.], and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.], shall be made without regard to political affiliation.


REFERENCES IN TEXT


REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5.

AMENDMENTS

1965—Subsec. (c), Pub. L. 99–158 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Upon appointment of any such council or committee, the Surgeon General, with the approval of the Secretary, may transfer such of the functions of the National Advisory Health Council relating to grants-in-aid for research or training projects or programs in the areas or fields with which such council or committee is concerned as he determines to be appropriate.”

1970—Subsec. (a), Pub. L. 91–515, §601(c)(1), substituted provisions authorizing the Secretary to appoint advisory councils or committees without regard to specified provisions governing appointments in the competitive service and relating to classification and General Schedule pay rates, for provisions authorizing the Surgeon General to appoint advisory committees without regard to the civil service laws and subject to the Secretary’s approval in such cases as he prescribed.

1 So in original. The comma probably should not appear.
§ 217b

VOLUNTEER SERVICES

Subject to regulations, volunteer and uncompensated services may be accepted by the Secretary, or by any other officer or employee of the Department of Health and Human Services designated by him, for use in the operation of any health care facility or in the provision of health care.

(§ 218)

VOLUNTEER SERVICES

Subject to regulations, volunteer and uncompensated services may be accepted by the Secretary, or by any other officer or employee of the Department of Health and Human Services designated by him, for use in the operation of any health care facility or in the provision of health care.

(§ 219)

ADVISORY COUNCILS ON MIGRANT HEALTH

(a) Appointment; duties

Within 120 days of July 29, 1975, the Secretary shall appoint and organize a National Advisory Council on Migrant Health (hereinafter in this subsection referred to as the “Council”) which shall advise, consult with, and make recommendations to, the Secretary on matters concerning the organization, operation, selection, and funding of migrant health centers and other entities under grants and contracts under section 254b of this title.

(b) Membership

The Council shall consist of fifteen members, at least twelve of whom shall be members of the governing boards of migrant health centers or other entities assisted under section 254b of this title. Of such twelve members who are members of such governing boards, at least nine shall be from among those members of such governing boards who are being served by such centers or grantees and who are familiar with the delivery of health care to migratory agricultural workers and seasonal agricultural workers. The remaining three Council members shall be individuals qualified by training and experience in the medical sciences or in the administration of health programs.

(c) Terms of office

Each member of the Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of the members first taking office after July 29, 1975, shall expire as follows: four shall expire four years after such date, four shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment.

(§ 220)

APPLICABILITY OF SECTION 14(a) OF FEDERAL ADVISORY COMMITTEE ACT

Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council.

(§ 221)

ADVISORY COUNCILS ON MIGRANT HEALTH

(a) Appointment; duties

Within 120 days of July 29, 1975, the Secretary shall appoint and organize a National Advisory Council on Migrant Health (hereinafter in this subsection referred to as the “Council”) which shall advise, consult with, and make recommendations to, the Secretary on matters concerning the organization, operation, selection, and funding of migrant health centers and other entities under grants and contracts under section 254b of this title.

(b) Membership

The Council shall consist of fifteen members, at least twelve of whom shall be members of the governing boards of migrant health centers or other entities assisted under section 254b of this title. Of such twelve members who are members of such governing boards, at least nine shall be from among those members of such governing boards who are being served by such centers or grantees and who are familiar with the delivery of health care to migratory agricultural workers and seasonal agricultural workers. The remaining three Council members shall be individuals qualified by training and experience in the medical sciences or in the administration of health programs.

(c) Terms of office

Each member of the Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of the members first taking office after July 29, 1975, shall expire as follows: four shall expire four years after such date, four shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment.

(d) Applicability of section 14(a) of Federal Advisory Committee Act

Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council.

(§ 222)

ADVISORY COUNCILS ON MIGRANT HEALTH

(a) Appointment; duties

Within 120 days of July 29, 1975, the Secretary shall appoint and organize a National Advisory Council on Migrant Health (hereinafter in this subsection referred to as the “Council”) which shall advise, consult with, and make recommendations to, the Secretary on matters concerning the organization, operation, selection, and funding of migrant health centers and other entities under grants and contracts under section 254b of this title.

(b) Membership

The Council shall consist of fifteen members, at least twelve of whom shall be members of the governing boards of migrant health centers or other entities assisted under section 254b of this title. Of such twelve members who are members of such governing boards, at least nine shall be from among those members of such governing boards who are being served by such centers or grantees and who are familiar with the delivery of health care to migratory agricultural workers and seasonal agricultural workers. The remaining three Council members shall be individuals qualified by training and experience in the medical sciences or in the administration of health programs.

(c) Terms of office

Each member of the Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of the members first taking office after July 29, 1975, shall expire as follows: four shall expire four years after such date, four shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment.
tial Research Council", and substituted "by the Secretary" for "by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare".

Pub. L. 99–158, §3(a)(2)(B)(ii), in second sentence struck out "in the case of the National Advisory Health Council, are skilled in the sciences related to health," and after "scientific authorities who,".

Pub. L. 99–158, §3(a)(2)(B)(ii), which directed the substitution in second sentence of "the National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism" for "the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council" was executed by making the substitution for "the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council" as the probable intent of Congress in view of the prior deletion of "the National Advisory Heart Council," by Pub. L. 92–423. See 1972 Amendment note below.

Pub. L. 99–158, §3(a)(2)(B)(i), in second sentence substituted "and alcohol abuse and alcoholism" for "alcohol abuse and alcoholism, and dental diseases and conditions".

Pub. L. 99–158, §3(a)(2)(C), struck out third sentence which provided that in the case of the National Advisory Dental Research Council, four of the six members selected from among the leading medical or scientific authorities be dentists.

Pub. L. 99–158, §3(a)(3), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to the duties of the National Advisory Health Council.

Subsecs. (c) to (e), (g), Pub. L. 99–158, §3(a)(3), redesignated subsecs. (d), (e), and (g) as (c), (d), and (e), respectively.

1984—Subsec. (a). Pub. L. 98–509 inserted provision requiring the Secretary to assure that the membership of the National Advisory Council on Alcohol Abuse and Alcoholism is broadly representative of experts in the fields of prevention, research, and treatment of alcohol abuse, alcoholism, and rehabilitation of alcohol abusers.

1983—Subsecs. (c) to (e), Pub. L. 98–24 substituted "section 300aa of this title" for "section 219 of this title".

1980—Pub. L. 95–626 substituted "National Advisory Council on Alcohol Abuse and Alcoholism" for "National Advisory Council on Alcohol Abuse and Alcoholism and the amendments made by this Act [see Short Title of 1972 Amendment note under section 201 of this title] shall take effect sixty days after the date of enactment".


1970—Subsec. (a). Pub. L. 91–616, §401(a), made subsection applicable to National Advisory Council on Alcohol Abuse and Alcoholism, and inserted alcohol abuse and alcoholism to enumeration of diseases concerning which members of such Council must be skilled, and prescribed manner in which terms of members of Council would expire.

Subsec. (b). Pub. L. 91–616, §401(b), inserted reference to National Advisory Council on Alcohol Abuse and Alcoholism authorizing the Surgeon General to utilize the services of members of such Council for additional periods.

Pub. L. 91–515 inserted "or committees" after "councils".


1960—Act Aug. 15, 1959, §3(d), amended section catchline to reflect addition of new advisory councils.

Subsec. (a). Act Aug. 15, 1959, §3(a), applied provisions to all of the advisory councils with regard to composition, qualifications, and appointment and tenure of members.

Subsec. (b). Act Aug. 15, 1959, §3(b), made subsection also applicable to new advisory councils.

Subsec. (c). Act Aug. 15, 1959, §3(c), redesignated subsec. (e) as (c) and repealed former subsec. (c).

Subsecs. (d), (f), (g), Act Aug. 15, 1959, §3(c), repealed subsecs. (d), (f), and (g).

1948—Acts June 16, 1948, §4(c), and June 24, 1948, §4(c), included in section catchline the National Advisory Heart and Dental Research Councils, respectively.


Subsec. (b). Acts June 16, 1948, §4(b), and June 24, 1948, §4(b), made subsection applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (f). Act June 16, 1948, §4(a), added subsec. (f) which established the National Advisory Heart Council.

Subsec. (g). Act June 24, 1948, §4(g), added subsec. (g) which established the National Advisory Dental Research Council.

1946—Act July 3, 1946, inserted "Mental Health" in section catchline.

Subsec. (b). Act July 3, 1946, inserted "or of the National Advisory Mental Health Council".

Subsecs. (d), (e). Act July 3, 1946, added subsecs. (d) and (e).


effective date of 1978 Amendment

Section 302(b) of Pub. L. 95–622 provided that the amendment made by that section is effective Nov. 1, 1978.


effective date of 1975 Amendment

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as a note under section 247b of this title.


effective date of 1974 Amendment


effective date of 1972 Amendment

Section 9 of Pub. L. 92–423 provided that: "This Act and the amendments made by this Act [see Short Title of 1972 Amendment note under section 201 of this title] shall take effect sixty days after the date of enactment
of this Act [Sept. 19, 1972] or on such prior date after the date of enactment of this Act as the President shall prescribe and publish in the Federal Register.

**Effective Date of 1971 Amendment**

Section 7 of Pub. L. 92-218 provided that:

“(a) This Act and the amendments made by this Act [enacting sections 286a to 286g of this title, amending this section and sections 241, 282, 283, and 294 of this title, and enacting provisions set out as notes under sections 281 and 286 of this title] shall take effect sixty days after the date of enactment of this Act [Dec. 23, 1971] or on such prior date after the date of enactment of this Act as the President shall prescribe and publish in the Federal Register.

“(b) The first sentence of section 454 of the Public Health Service Act [section 289f of this title] (as added by section 5 of this Act) shall apply only with respect to appointments made after the effective date of this Act (as prescribed by subsection (a)).

“(c) Notwithstanding the provisions of subsection (a), members of the National Cancer Advisory Board (authorized under section 410B of the Public Health Service Act, as added by this Act) [section 286f of this title] may be appointed, in the manner provided for in such section, at any time after the date of enactment of this Act [Dec. 23, 1971]. Such officers shall be compensated from the date they first take office, at the rates provided for in such section 410B (section 286f of this title).

**Effective Date of 1965 Amendment**

Section 3(a), (c) of act Aug. 15, 1965, provided that the amendments and repeal made by that section are effective Oct. 1, 1950.

**Transfer of Functions**


Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96-29 which is classified to section 3501(b) of Title 20, Education.


For transfer of certain membership functions, insofar as they pertain to the Air Force, which functions were not previously transferred from Secretary of the Army to Secretary of the Air Force and from Department of the Army to Department of the Air Force, see Secretary of Defense Transfer Order No. 40 [App. O(7)], July 22, 1949.

**Reference to Community, Migrant, Public Housing, or Homeless Health Center Considered Reference to Health Center**

Reference to community health center, migrant health center, public housing public health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104-209, set out as a note under section 254b of this title.

**Expiration of Terms of Office on September 30, 1950**

Section 3(c) of act Aug. 15, 1950, provided in part that terms of office as members of national advisory councils pursuant to this section subsisting on Sept. 30, 1950, shall expire at the close of business on such day.

**Termination of National Advisory Health Council**

Section 3(a)(1) of Pub. L. 99-158 provided that: “The National Advisory Health Council established under section 217 (this section) is terminated.”

**Termination of Advisory Committees**

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 218a. Training of officers

(a) In general

Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty while attending any Federal or non-Federal educational institution or training program and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Voluntary separation within period subsequent to attendance

Any officer whose tuition, fees, and other necessary expenses are paid pursuant to subsection (a) of this section while attending an educational institution or training program for a period in excess of thirty days shall be obligated to pay to the Service an amount equal to two times the total amount of such tuition, fees, and other necessary expenses received by such officer during such period, and two times the total amount of any compensation received by, and any allowance paid to, such officer during such period, if after return to active service such officer voluntarily leaves the Service within (1) six months, or (2) twice the period of such attendance, whichever is greater. Such subsequent period of service shall commence upon the cessation of such attendance and of any further continuous period of training duty for which no tuition and fees are paid by the Service and which is part of the officer’s prescribed formal training program, whether such further training is at a Service facility or otherwise. The Surgeon General may waive, in whole or in part, any payment which may be required by this subsection upon a determination that such payment would be inequitable or would not be in the public interest.

(c) Training in leave without pay status

A commissioned officer may be placed in leave without pay status while attending an educational institution or training program when ever the Secretary determines that such status is in the best interest of the Service. For purposes of computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by sections 213 and 239 of this title, an officer in such status, pursuant to the preceding sentence shall be considered as performing service in the Service and shall have an active service obligation as set forth in subsection (b) of this section.
Section 221, act July 1, 1944, ch. 373, title V, §508, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which related to settlement of claims, was renumbered section 2304 of act July 1, 1944, by Pub. L. 98–24 and transferred to section 300cc–3 of this title, and was repealed by Pub. L. 98–621, §10(s), Nov. 8, 1984, 98 Stat. 3381.


Section 224, acts July 1, 1944, ch. 373, title V, §506, 58 Stat. 710; July 15, 1954, ch. 507, §14(b), 68 Stat. 481, which related to transportation of remains of officers, was successively renumbered by subsequent acts and transferred, see section 293b of this title.

A new title V (§501 et seq.) of the Public Health Service Act was added by Pub. L. 98–24, §2(b), Apr. 26, 1983, 97 Stat. 177, and is classified to subchapter III–A (§290aa et seq. of this title).


Section, acts July 1, 1944, ch. 373, title V, §507, 58 Stat. 711; Feb. 25, 1946, ch. 35, §5, 60 Stat. 30, provided for settlement of accounts of deceased officers. See section 2771 of Title 10, Armed Forces, and section 714 of Title 32, National Guard.

**Effective Date of Repeal**

Repeal effective as of effective date of payment provisions of sections 361 to 365 of former Title 37, Pay and Allowances, except with respect to the deaths of members, see section 5 of act July 12, 1955.

$$\text{§ 225a to 227. Transferred}$$

**Codification**


A prior section 507 of act July 1, 1944, ch. 373, title V, providing for settlement of accounts of deceased officers, was classified to section 225 of this title and subsequently repealed.

Section 226, act July 1, 1944, ch. 373, title V, §508, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which related to transfer of funds between appropriations, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

Section 227, acts July 1, 1944, ch. 373, title V, §509, 58 Stat. 711; June 16, 1948, ch. 481, §6(b), 62 Stat. 469; June 25, 1948, ch. 464, §7, 62 Stat. 1018; Reorg. Plan No. 1 of 1953 §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which related to availability of appropriations for carrying out purposes of this chapter, was successively renumbered by subsequent acts and transferred, see section 238f of this title.

$$\text{§ 227a. Omitted}$$

**Codification**

Section, Pub. L. 90–132, title II, §204, Nov. 8, 1967, 81 Stat. 407, which provided that appropriations to the Public Health Service be available for research grants to hospitals of the Service, the Bureau of Prisons, the Department of Justice, and to Saint Elizabeths Hospital, on the same terms and conditions as grants to non-Federal institutions, was enacted as part of the Depart-
tion of retired pay. See section 212 of this title.

## § 222 to 229d. Transferred

### CODIFICATION

Section 229, act July 1, 1944, ch. 373, title V, § 512, which related to wearing of uniforms, was successively renumbered by subsequent acts and transferred, see section 238h of this title.

Section 229a, act July 1, 1944, ch. 373, title V, § 511, 58 Stat. 711; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which related to an annual report by Surgeon General, was successively renumbered by subsequent acts and transferred, see section 238h of this title.

Section 229b, act July 1, 1944, ch. 373, title V, § 510, 58 Stat. 711; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which related to memorials and other acknowledgments for contributions to health of the Nation, was successively renumbered by subsequent acts and transferred, see section 238h of this title.

Section 229c, act July 1, 1944, ch. 373, title V, § 514, which related to contract authority of Secretary, was successively renumbered by subsequent acts and transferred, see section 238h of this title.


## § 230. Repealed. Apr. 27, 1956, ch. 211, § 5(e), 70 Stat. 117

### CODIFICATION


## § 231. Service and supply fund; uses; reimbursement

A service and supply fund of $250,000 is established, without fiscal year limitation, for the payment of salaries, travel, and other expenses necessary to the maintenance and operation of (I) a supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, materials, equipment, and blank forms, for which stocks may be maintained to meet, in whole or in part, require-ments of the Public Health Service and requisitions of other Government Offices, and (2) such other services as the Surgeon General, with the approval of the Secretary of Health and Human Services, determines may be performed more advantageously as central services; said fund to be reimbursed from applicable appropriations or funds available when services are performed or stock furnished, or in advance, on a basis of rates which shall include estimated or actual charges for personal services, materials, equipment (including maintenance, repairs, and depreciation), and other expenses.


## § 232. National Institute of Mental Health; authorization of appropriation; construction; location

There is authorized to be appropriated a sum not to exceed $7,500,000 for the erection and equipment, for the use of the Public Health Service in carrying out the provisions of this Act, of suitable and adequate hospital buildings and facilities, including necessary living quarters for personnel, and of suitable and adequate laboratory buildings and facilities, and such buildings and facilities shall be known as the National Institute of Mental Health. The Administrator of General Services is authorized to acquire, by purchase as central service, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and fa-
cilities, and to erect thereon, furnish, and equip such buildings and facilities. The amount authorized to be appropriated in this section shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work: Provided, That the Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction.


REFERENCES IN TEXT
This Act, referred to in text, is act July 3, 1946, ch. 538, 60 Stat. 421, as amended, known as the National Mental Health Act, which enacted sections 232 and 232a of this title, amended sections 201, 209, 210, 215, 218, 219, 241, 244, and 246 of this title, and enacted provisions set out as notes under section 201 of this title. For complete classification of this Act to the Code, see Short Title of 1946 Amendment note set out under section 201 of this title and Tables.

CODIFICATION
Section was enacted as a part of the National Mental Health Act, and not as a part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS
Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 9955, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 201 of Title 20, Education.

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator transferred to Administrator of General Services by section 103(a) of act June 30, 1949. Both Federal Works Agency and office of Federal Works Administrator abolished by section 103(b) of that act. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–333, §2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS
Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605, formerly section 505, of act June 30, 1949, ch. 288, 63 Stat. 493; renumbered by act Sept. 5, 1950, ch. 849, §10(a), (b), 64 Stat. 583.

§ 233. Civil actions or proceedings against commissioned officers or employees

(a) Exclusiveness of remedy
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) Attorney General to defend action or proceeding; delivery of process to designated official; furnishing of copies of pleading and process to United States attorney, Attorney General, and Secretary
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.

(c) Removal to United States district court; procedure; proceeding upon removal deemed a tort action against United States; hearing on motion to remand to determine availability of remedy against United States; remand to State court or dismissal
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 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 the United States district court determine on a hearing on a motion to remand held before a trial on the merits 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.

(d) Compromise or settlement of claim by Attorney General
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.
§ 233

Title 42—The Public Health and Welfare

(e) Assault or battery

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.

(f) Authority of Secretary or designee to hold harmless or provide liability insurance for assigned or detailed employees

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.

(g) Exclusivity of remedy against United States for entities deemed Public Health Service employees; coverage for services furnished to individuals other than center patients; application process; subrogation of medical malpractice claims; applicable period; entity and contractor defined

(1)(A) For purposes of this section and subject to the approval by the Secretary of an application under subparagraph (D), an entity described in paragraph (4) and any officer, governing board member, or employee of such an entity, and any contractor of such an entity who is a physician or other licensed or certified health care practitioner (subject to paragraph (5)), shall be deemed to be an employee of the Public Health Service for a calendar year that begins during a fiscal year for which a transfer was made under subsection (k)(3) of this section (subject to paragraph (3)). The remedy against the United States for an entity described in paragraph (4) and any officer, governing board member, employee, or contractor (subject to paragraph (5)) of such an entity who is deemed to be an employee of the Public Health Service pursuant to this paragraph shall be exclusive of any other civil action or proceeding to the same extent as the remedy against the United States is exclusive pursuant to subsection (a) of this section.

(B) The deeming of any entity or officer, governing board member, employee, or contractor of the entity to be an employee of the Public Health Service for purposes of this section shall apply with respect to services provided—

(i) to all patients of the entity, and

(ii) subject to subparagraph (C), to individuals who are not patients of the entity.

(C) Subparagraph (B)(ii) applies to services provided to individuals who are not patients of an entity if the Secretary determines, after reviewing an application submitted under subparagraph (D), that the provision of the services to such individuals—

(i) benefits patients of the entity and general populations that could be served by the entity through community-wide intervention efforts within the communities served by such entity;

(ii) facilitates the provision of services to patients of the entity;

(iii) are otherwise required under an employment contract (or similar arrangement) between the entity and an officer, governing board member, employee, or contractor of the entity.

(D) The Secretary may not under subparagraph (A) deem an entity or an officer, governing board member, employee, or contractor of the entity to be an employee of the Public Health Service for purposes of this section, and may not apply such deeming to services described in subparagraph (B)(ii), unless the entity has submitted an application for such deeming to the Secretary in such form and such manner as the Secretary shall prescribe. The application shall contain detailed information, along with supporting documentation, to verify that the entity, and the officer, governing board member, employee, or contractor of the entity, as the case may be, meets the requirements of subparagraphs (B) and (C) of this paragraph and that the entity meets the requirements of paragraphs (1) through (4) of subsection (h) of this section.

(E) The Secretary shall make a determination of whether an entity or an officer, governing board member, employee, or contractor of the entity is deemed to be an employee of the Public Health Service for purposes of this section within 30 days after the receipt of an application under subparagraph (D). The determination of the Secretary that an entity or an officer, governing board member, employee, or contractor of the entity is deemed to be an employee of the Public Health Service for purposes of this section shall apply for the period specified by the Secretary under subparagraph (A).

(F) Once the Secretary makes a determination that an entity or an officer, governing board member, employee, or contractor of an entity is deemed to be an employee of the Public Health Service for purposes of this section, the determination shall be final and binding upon the Secretary and the Attorney General and other parties to any civil action or proceeding. Except as provided in subsection (i) of this section, the Secretary and the Attorney General may not determine that the provision of services which are the subject of such a determination are not covered under this section.

(G) In the case of an entity described in paragraph (4) that has not submitted an application under subparagraph (D):

(i) The Secretary may not consider the entity in making estimates under subsection (k)(1) of this section.

(ii) This section does not affect any authority of the entity to purchase medical malpractice liability insurance coverage with Federal funds provided to the entity under section 254b, 254b, or 256a of this title.1

1 See References in Text notes below.
(H) In the case of an entity described in paragraph (4) for which an application under subparagraph (D) is in effect, the entity may, through notifying the Secretary in writing, elect to terminate the applicability of this subsection to the entity. With respect to such election by the entity:

(i) The election is effective upon the expiration of the 30-day period beginning on the date on which the entity submits such notification.

(ii) Upon taking effect, the election terminates the applicability of this subsection to the entity and each officer, governing board member, employee, and contractor of the entity.

(iii) Upon the effective date for the election, clauses (i) and (ii) of subparagraph (G) apply to the entity to the same extent and in the same manner as such clauses apply to an entity that has not submitted an application under subparagraph (D).

(iv) If after making the election the entity submits an application under subparagraph (D), the election does not preclude the Secretary from approving the application and thereby restoring the applicability of this subsection to the entity and each officer, governing board member, employee, and contractor of the entity, subject to the provisions of this subsection and the subsequent provisions of this section.

(2) If, with respect to an entity or person deemed to be an employee for purposes of paragraph (1), a cause of action is instituted against the United States pursuant to this section, any claim of the entity or person for benefits under an insurance policy with respect to medical malpractice relating to such cause of action shall be subrogated to the United States.

(3) This subsection shall apply with respect to a cause of action arising from an act or omission which occurs on or after January 1, 1993.

(4) An entity described in this paragraph is a public or non-profit private entity receiving Federal funds under section 254b of this title.

(5) For purposes of paragraph (1), an individual may be considered a contractor of an entity described in paragraph (4) only if—

(A) the individual normally performs on average at least 32½ hours of service per week for the entity for the period of the contract; or

(B) in the case of an individual who normally performs an average of less than 32½ hours of services per week for the entity for the period of the contract, the individual is outside the norm for licensed or certified health care practitioners within the same specialty;

(C) refused to reasonably cooperate with the Attorney General in providing information relating to an estimate described under subsection (k) of this section.

(i) Authority of Attorney General to exclude health care professionals from coverage

(1) Notwithstanding subsection (g)(1) of this section, the Attorney General, in consultation with the Department of Health and Human Services, may on the record determine, after notice and opportunity for a full and fair hearing, that an individual physician or other licensed or certified health care practitioner who is an officer, employee, or contractor of an entity described in subsection (g)(4) of this section shall not be deemed to be an employee of the Public Health Service for purposes of this section, if treating such individual as such an employee would expose the Government to an unreasonably high degree of risk of loss because such individual—

(A) does not comply with the policies and procedures that the entity has implemented pursuant to subsection (h)(1) of this section;

(B) has a history of claims filed against him or her as provided for under this section that is outside the norm for licensed or certified health care practitioners within the same specialty;

(C) refused to reasonably cooperate with the Attorney General in defending against any such claim;

(D) provided false information relevant to the individual’s performance of his or her duties to the Secretary, the Attorney General, or an applicant for or recipient of funds under this chapter; or

(E) was the subject of disciplinary action taken by a State medical licensing authority or a State or national professional society.

(2) A final determination by the Attorney General under this subsection that an individual physician or other licensed or certified health care professional shall not be deemed to be an employee of the Public Health Service shall be effective upon receipt by the entity employing such individual of notice of such determination, and shall apply only to acts or omissions occurring after the date such notice is received.

(j) Remedy for denial of hospital admitting privileges to certain health care providers

In the case of a denial of hospital admitting privileges to a hospital by a health care provider who is an officer, employee, or contractor of an entity de-
scribed in subsection (g)(4) of this section, section 254h(e) of this title shall apply with respect to the provider to the same extent and in the same manner as such section applies to any member of the National Health Service Corps.

(k) Estimate of annual claims by Attorney General; criteria; establishment of fund; transfer of funds to Treasury accounts

(1) For each fiscal year, the Attorney General, in consultation with the Secretary, shall estimate by the beginning of the year the amount of all claims which are expected to arise under this section (together with related fees and expenses of witnesses) for which payment is expected to be made in accordance with section 1346 and chapter 171 of title 28 from the acts or omissions, during the calendar year that begins during that fiscal year, of entities described in subsection (g)(4) of this section and of officers, employees, or contractors (subject to subsection (g)(5) of this section) of such entities.

(B) The estimate under subparagraph (A) shall take into account—

(i) the value and frequency of all claims for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions by entities described in subsection (g)(4) of this section or by officers, employees, or contractors (subject to subsection (g)(5) of this section) of such entities who are deemed to be employees of the Public Health Service under subsection (g)(1) of this section that, during the preceding 5-year period, are filed under this section or, with respect to years occurring before this subsection takes effect, are filed against persons other than the United States,

(ii) the amounts paid during that 5-year period on all claims described in clause (i), regardless of when such claims were filed, adjusted to reflect payments which would not be permitted under section 1346 and chapter 171 of title 28, and

(iii) amounts in the fund established under paragraph (2) but unspent from prior fiscal years.

(2) Subject to appropriations, for each fiscal year, the Secretary shall establish a fund of an amount equal to the amount estimated under paragraph (1) that is attributable to entities receiving funds under each of the grant programs described in paragraph (4) of subsection (g) of this section, but not to exceed a total of $10,000,000 for each such fiscal year. Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 254b, 254b and 256a of this title.

(3) In order for payments to be made for judgments against the United States (together with related fees and expenses of witnesses) pursuant to this section arising from the acts or omissions of entities described in subsection (g)(4) of this section and of officers, governing board member, 3 employees, or contractors (subject to subsection (g)(5) of this section) of such entities, the total amount contained within the fund established by the Secretary under paragraph (2) for a fiscal year shall be transferred not later than the December 31 that occurs during the fiscal year to the appropriate accounts in the Treasury.

(l) Timely response to filing of action or proceeding

(1) If a civil action or proceeding is filed in a State court against any entity described in subsection (g)(4) of this section or any officer, governing board member, employee, or any contractor of such an entity for damages described in subsection (a) of this section, the Attorney General, within 15 days after being notified of such filing, shall make an appearance in such court and advise such court as to whether the Secretary has determined under subsections (g) and (h) of this section, that such entity, officer, governing board member, employee, or contractor of the entity is deemed to be an employee of the Public Health Service for purposes of this section with respect to the actions or omissions that are the subject of such civil action or proceeding. Such advice shall be deemed to satisfy the provisions of subsection (c) of this section that the Attorney General certify that an entity, officer, governing board member, employee, contractor of the entity was acting within the scope of their employment or responsibility.

(2) If the Attorney General fails to appear in State court within the time period prescribed under paragraph (1), upon petition of any entity or officer, governing board member, employee, or contractor of the entity named, the civil action or proceeding shall be removed to the appropriate United States district court. The civil action or proceeding shall be stayed in such court until such court conducts a hearing, and makes a determination, as to the appropriate forum or procedure for the assertion of the claim for damages described in subsection (a) of this section and issues an order consistent with such determination.

(m) Application of coverage to managed care plans

(1) An entity or officer, governing board member, employee, or contractor of an entity described in subsection (g)(1) of this section shall, for purposes of this section, be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are enrollees of a managed care plan if the entity contracts with such managed care plan for the provision of services.

(2) Each managed care plan which enters into a contract with an entity described in subsection (g)(4) of this section shall deem the entity and any officer, governing board member, employee, or contractor of the entity as meeting whatever malpractice coverage requirements such plan may require of contracting providers for a calendar year if such entity or officer, governing board member, employee, or contractor of the entity has been deemed to be an employee of the Public Health Service for purposes of this section for such calendar year. Any plan which is found by the Secretary on the record, after notice and an opportunity for a full and fair hearing, to have violated this subsection shall upon such finding cease, for a period to be deter-
(3) For purposes of this subsection, the term "managed care plan" shall mean health maintenance organizations and similar entities that contract at-risk with payors for the provision of health services or plan enrollees and which contract with providers (such as entities described in subsection (g)(4) of this section) for the delivery of such services to plan enrollees.

(n) Report on risk exposure of covered entities

(1) Not later than one year after December 26, 1995, the Comptroller General of the United States shall submit to the Congress a report on the following:

(A) The medical malpractice liability claims experience of entities that have been deemed to be employees for purposes of this section.

(B) The liability insurance coverage is consistent with the liability claims experience of such entities.

(C) The value of private sector risk-management services, and the value of risk-management services and procedures required as a condition of receiving a grant under section 254b, 254b, or 256a of this title.

(D) A comparison of the costs and the benefits to taxpayers of maintaining medical malpractice liability insurance coverage for such entities pursuant to this section, taking into account—

(i) a comparison of the costs of premiums paid by such entities for private medical malpractice liability insurance with the cost of coverage pursuant to this section; and

(ii) an analysis of whether the cost of premiums for private medical malpractice liability insurance is consistent with the liability claims experience of such entities.

(2) The report under paragraph (1) shall include the following:

(A) A comparison of—

(i) an estimate of the aggregate amounts that such entities (together with the officers, governing board members, employees, and contractors of such entities who have been deemed to be employees for purposes of this section) would have directly or indirectly paid in premiums to obtain medical malpractice liability insurance coverage if this section were not in effect; with

(ii) the aggregate amounts by which the grants received by such entities under this chapter were reduced pursuant to subsection (k)(2) of this section.

(B) A comparison of—

(i) an estimate of the amount of privately offered such insurance that such entities (together with the officers, governing board members, employees, and contractors of such entities who have been deemed to be employees for purposes of this section) purchased during the three-year period beginning on January 1, 1993; with

(ii) an estimate of the amount of such insurance that such entities (together with the officers, governing board members, employees, and contractors of such entities who have been deemed to be employees for purposes of this section) will purchase after December 26, 1995.

(C) An estimate of the medical malpractice liability loss history of such entities for the 10-year period preceding October 1, 1996, including but not limited to the following:

(i) Claims that have been paid and that are estimated to be paid, and legal expenses to handle such claims that have been paid and that are estimated to be paid, by the Federal Government pursuant to deeming entities as employees for purposes of this section.

(ii) Claims that have been paid and that are estimated to be paid, and legal expenses to handle such claims that have been paid and that are estimated to be paid, by private medical malpractice liability insurance.

(D) An analysis of whether the cost of premiums for private medical malpractice liability insurance coverage is consistent with the liability claims experience of entities that have been deemed as employees for purposes of this section.

(3) In preparing the report under paragraph (1), the Comptroller General of the United States shall consult with public and private entities with expertise on the matters with which the report is concerned.

(o) Volunteer services provided by health professionals at free clinics

(1) For purposes of this section, a free clinic health professional shall in providing a qualifying health service to an individual, or an officer, governing board member, employee, or contractor of a free clinic shall in providing services for the free clinic, be deemed to be an employee of the Public Health Service for a calendar year that begins during a fiscal year for which a transfer was made under paragraph (6)(D). The preceding sentence is subject to the provisions of this subsection.

(2) In providing a health service to an individual, a health care practitioner shall for purposes of this subsection be considered to be a free clinic health professional if the following conditions are met:

(A) The service is provided to the individual at a free clinic, or through offsite programs or events carried out by the free clinic.

(B) The free clinic is sponsoring the health care practitioner pursuant to paragraph (5)(C).

(C) The service is a qualifying health service (as defined in paragraph (4)).

(D) Neither the health care practitioner nor the free clinic receives any compensation for the service from the individual or from any third-party payor (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program). With respect to compliance with such conditions:

(i) The health care practitioner may receive repayment from the free clinic for reasonable expenses incurred by the health care practitioner in the provision of the service to the individual.

4See References in Text notes below.
(ii) The free clinic may accept voluntary donations for the provision of the service by the health care practitioner to the individual.

(E) Before the service is provided, the health care practitioner or the free clinic provides written notice to the individual of the extent to which the legal liability of the health care practitioner is limited pursuant to this subsection (or in the case of an emergency, the written notice is provided to the individual as soon after the emergency as is practicable). If the individual is a minor or is otherwise legally incompetent, the condition under this subparagraph is that the written notice be provided to a legal guardian or other person with legal responsibility for the care of the individual.

(F) At the time the service is provided, the health care practitioner is licensed or certified in accordance with applicable law regarding the provision of the service.

(3)(A) For purposes of this subsection, the term "free clinic" means a health care facility operated by a nonprofit private entity meeting the following requirements:

(i) The entity does not, in providing health services through the facility, accept reimbursement from any third-party payor (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).

(ii) The entity, in providing health services through the facility, either does not impose charges on the individuals to whom the services are provided, or imposes a charge according to the ability of the individual involved to pay the charge.

(iii) The entity is licensed or certified in accordance with applicable law regarding the provision of health services.

(B) With respect to compliance with the conditions under subparagraph (A), the entity involved may accept voluntary donations for the provision of services.

(4) For purposes of this subsection, the term "qualifying health service" means any medical assistance required or authorized to be provided in the program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], without regard to whether the medical assistance is included in the plan submitted under such program by the State in which the health care practitioner involved provides the medical assistance. References in the preceding sentence to such program shall as applicable be considered to be references to any successor to such program.

(5) Subsection (g) of this section (other than paragraphs (3) through (5)) and subsections (h), (i), and (j) of this section apply to a health care practitioner for purposes of this subsection to the same extent and in the same manner as such subsections apply to an officer, governing board member, employee, or contractor of an entity described in subsection (g)(4) of this section, subject to paragraph (6) and subject to the following:

(A) The first sentence of paragraph (1) applies in lieu of the first sentence of subsection (g)(1)(A) of this section.

(B) This subsection may not be construed as deeming any free clinic to be an employee of the Public Health Service for purposes of this section.

(C) With respect to a free clinic, a health care practitioner is not a free clinic health professional unless the free clinic sponsors the health care practitioner. For purposes of this subsection, the free clinic shall be considered to be sponsoring the health care practitioner if—

(i) with respect to the health care practitioner, the free clinic submits to the Secretary an application meeting the requirements of subsection (g)(1)(D) of this section; and

(ii) the Secretary, pursuant to subsection (g)(1)(E) of this section, determines that the health care practitioner is deemed to be an employee of the Public Health Service.

(D) In the case of a health care practitioner who is determined by the Secretary pursuant to subsection (g)(1)(E) of this section to be a free clinic health professional, this subsection applies to the health care practitioner (with respect to the free clinic sponsoring the health care practitioner pursuant to subparagraph (C)) for any cause of action arising from an act or omission of the health care practitioner occurring on or after the date on which the Secretary makes such determination.

(E) Subsection (g)(1)(F) of this section applies to a health care practitioner for purposes of this subsection only to the extent that, in providing health services to an individual, each of the conditions specified in paragraph (2) is met.

(6)(A) For purposes of making payments for judgments against the United States (together with related fees and expenses of witnesses) pursuant to this section arising from the acts or omissions of free clinic health professionals, there is authorized to be appropriated $10,000,000 for each fiscal year.

(B) The Secretary shall establish a fund for purposes of this subsection. Each fiscal year amounts appropriated under subparagraph (A) shall be deposited in such fund.

(C) Not later than May 1 of each fiscal year, the Attorney General, in consultation with the Secretary, shall submit to the Congress a report providing an estimate of the amount of claims (together with related fees and expenses of witnesses) that, by reason of the acts or omissions of free clinic health professionals, will be paid pursuant to this section during the calendar year that begins in the following fiscal year. Subsection (k)(1)(B) of this section applies to the estimate under the preceding sentence regarding free clinic health professionals to the same extent and in the same manner as such subsection applies to the estimate under such subsection regarding officers, governing board members, employees, and contractors of entities described in subsection (g)(4) of this section.

(D) Not later than December 31 of each fiscal year, the Secretary shall transfer from the fund under subparagraph (B) to the appropriate accounts in the Treasury an amount equal to the estimate made under subparagraph (C) for the
calendar year beginning in such fiscal year, subject to the extent of amounts in the fund.  

(7)(A) This subsection takes effect on the date of the enactment of the first appropriations Act that makes an appropriation under paragraph (6)(A), except as provided in subparagraph (B)(i).  

(B)(i) Effective on August 21, 1996—  

(I) the Secretary may issue regulations for carrying out this subsection, and the Secretary may accept and consider applications submitted pursuant to paragraph (5)(C); and  

(II) reports under paragraph (6)(C) may be submitted to the Congress.  

(ii) For the first fiscal year for which an appropriation is made under subparagraph (A) of paragraph (6), if an estimate under subparagraph (C) of such paragraph has not been made for the calendar year beginning in such fiscal year, the transfer under subparagraph (D) of such paragraph shall be made notwithstanding the lack of the estimate, and the transfer shall be made in an amount equal to the amount of such appropriation.  

(p) Administration of smallpox countermeasures by health professionals  

(1) In general  

For purposes of this section, and subject to other provisions of this subsection, a covered person shall be deemed to be an employee of the Public Health Service with respect to liability arising out of administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).  

(2) Declaration by Secretary concerning countermeasure against smallpox  

(A) Authority to issue declaration  

(i) In general  

The Secretary may issue a declaration, pursuant to this paragraph, concluding that an actual or potential bioterrorist incident or other actual or potential public health emergency makes advisable the administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).  

(ii) Covered countermeasure  

The Secretary shall specify in such declaration the substance or substances that shall be considered covered countermeasures (as defined in paragraph (7)(A)) for purposes of administration to individuals during the effective period of the declaration.  

(iii) Effective period  

The Secretary shall specify in such declaration the beginning and ending dates of the effective period of the declaration, and may subsequently amend such declaration to shorten or extend such effective period, provided that the new closing date is after the date when the declaration is amended.  

(iv) Publication  

The Secretary shall promptly publish each such declaration and amendment in the Federal Register.  

(B) Liability of United States only for administrations within scope of declaration  

Except as provided in paragraph (5)(B)(ii), the United States shall be liable under this subsection with respect to a claim arising out of the administration of a covered countermeasure to an individual only if—  

(i) the countermeasure was administered by a qualified person, for a purpose stated in paragraph (7)(A)(i), and during the effective period of a declaration by the Secretary under subparagraph (A) with respect to such countermeasure; and  

(ii)(I) the individual was within a category of individuals covered by the declaration; or  

(II) the qualified person administering the countermeasure had reasonable grounds to believe that such individual was within such category.  

(C) Presumption of administration within scope of declaration in case of accidental vaccinia inoculation  

(i) In general  

If vaccinia vaccine is a covered countermeasure specified in a declaration under subparagraph (A), and an individual to whom the vaccinia vaccine is not administered contracts vaccinia, then, under the circumstances specified in clause (ii), the individual—  

(I) shall be rebuttably presumed to have contracted vaccinia from an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B); and  

(II) shall (unless such presumption is rebutted) be deemed for purposes of this subsection to be an individual to whom a covered countermeasure was administered by a qualified person in accordance with the terms of such declaration and as described by subparagraph (B).  

(ii) Circumstances in which presumption applies  

The presumption and deeming stated in clause (i) shall apply if—  

(I) the individual contracts vaccinia during the effective period of a declaration under subparagraph (A) or by the date 30 days after the close of such period; or  

(II) the individual has resided with, or has had contact with, an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B) and contracts vaccinia after such date.  

(D) Acts and omissions deemed to be within scope of employment  

(i) In general  

In the case of a claim arising out of alleged transmission of vaccinia from an individual described in clause (ii), acts or omissions by such individual shall be deemed to have been taken within the scope of such individual’s office or employment for purposes of—
(II) section 1346(b) and chapter 171 of title 28.

(ii) Individuals to whom deeming applies

An individual is described by this clause if—

(I) vaccinia vaccine was administered to such individual as provided by subparagraph (B); and

(II) such individual was within a category of individuals covered by a declaration under subparagraph (A)(i).

(3) Exhaustion; exclusivity; offset

(A) Exhaustion

A person may not bring a claim under this subsection unless such person has exhausted such remedies as are available under part C of this subchapter, except that if the Secretary fails to make a final determination on a request for benefits or compensation filed in accordance with the requirements of such part within 240 days after such request was filed, the individual may seek any remedy that may be available under this section.

(B) Exclusivity

The remedy provided by subsection (a) of this section shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses, except for a proceeding under part C of this subchapter.

(iii) Construction

This subsection shall not be construed as superseding or otherwise affecting the application of a requirement, under chapter 171 of title 28, to exhaust administrative remedies.

(B) Exclusivity

The remedy provided by subsection (a) of this section shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses, except for a proceeding under part C of this subchapter.

(B) Certification of Attorney General conclusive

The certification of the Attorney General of the facts specified in subparagraph (A) shall conclusively establish such facts for purposes of jurisdiction pursuant to this subsection.

(5) Covered person to cooperate with United States

(A) In general

A covered person shall cooperate with the United States in the processing and defense of a claim or action under this subsection based upon alleged acts or omissions of such person.

(B) Consequences of failure to cooperate

Upon the motion of the United States or any other party and upon finding that such person has failed to so cooperate—

(i) the court shall substitute such person as the party defendant in place of the United States and, upon motion, shall remand any such suit to the court in which it was instituted if it appears that the court lacks subject matter jurisdiction;

(ii) the United States shall not be liable based on the acts or omissions of such person;

(iii) the Attorney General shall not be obligated to defend such action.

(6) Recourse against covered person in case of gross misconduct or contract violation

(A) In general

Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any covered person to carry out any obligation or responsibility assumed by such person under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person.

(B) Venue

The United States may maintain an action under this paragraph against such person in the district court of the United States in which such person resides or has its principal place of business.

(7) Definitions

As used in this subsection, terms have the following meanings:

(A) Covered countermeasure

The term “covered countermeasure” or “covered countermeasure against smallpox”, means a substance that is—

(i)(I) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

(ii) Individuals to whom deeming applies

An individual is described by this clause if—

(I) vaccinia vaccine was administered to such individual as provided by subparagraph (B); and

(II) such individual was within a category of individuals covered by a declaration under subparagraph (A)(i).
(II) used to control or treat the adverse effects of vaccinia inoculation or of administration of another covered countermeasure; and
(ii) specified in a declaration under paragraph (2).

(B) Covered person

The term ‘‘covered person’’, when used with respect to the administration of a covered countermeasure, means a person who is—

(i) a manufacturer or distributor of such countermeasure;
(ii) a health care entity under whose auspices—

(I) such countermeasure was administered;

(II) a determination was made as to whether, or under what circumstances, an individual should receive a covered countermeasure;

(III) the immediate site of administration on the body of a covered countermeasure was monitored, managed, or cared for; or

(IV) an evaluation was made of whether the administration of a countermeasure was effective;

(iii) a qualified person who administered such countermeasure;

(iv) a State, a political subdivision of a State, or an agency or official of a State or of such a political subdivision, if such State, subdivision, agency, or official has established requirements, provided policy guidance, supplied technical or scientific advice or assistance, or otherwise supervised or administered a program with respect to administration of such countermeasures;

(v) in the case of a claim arising out of alleged transmission of vaccinia from an individual—

(I) the individual who allegedly transmitted the vaccinia, if vaccinia vaccine was administered to such individual as provided by paragraph (2)(B) and such individual was within a category of individuals covered by a declaration under paragraph (2)(A)(I); or

(II) an entity that employs an individual described by clause (I) or otherwise authorized to provide health care;

(vi) an official, agent, or employee of a person described in clause (I), (ii), (iii), or (iv);

(vii) a contractor of, or a volunteer working for, a person described in clause (i), (ii), or (iv), if the contractor or volunteer performs a function for which a person described in clause (i), (ii), or (iv) is a covered person; or

(viii) an individual who has privileges or is otherwise authorized to provide health care under the auspices of an entity described in clause (ii) or (v)(II).

(C) Qualified person

The term ‘‘qualified person’’, when used with respect to the administration of a covered countermeasure, means a licensed health professional or other individual who—

(i) is authorized to administer such countermeasure under the law of the State in which the countermeasure was administered;

(ii) is otherwise authorized by the Secretary to administer such countermeasure.

(D) Arising out of administration of a covered countermeasure

The term ‘‘arising out of administration of a covered countermeasure’’, when used with respect to a claim or liability, includes a claim or liability arising out of—

(i) determining whether, or under what conditions, an individual should receive a covered countermeasure;

(ii) obtaining informed consent of an individual to the administration of a covered countermeasure;

(iii) monitoring, management, or care of an immediate site of administration on the body of a covered countermeasure, or evaluation of whether the administration of the countermeasure has been effective; or

(iv) transmission of vaccinia virus by an individual to whom vaccinia vaccine was administered as provided by paragraph (2)(B).

(§ 1395 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

REFERENCES IN TEXT

The references to section 254b of this title the first place appearing in subsecs. (g)(1)(G)(ii), (k)(2), and (n)(1)(C), were in the original references to section 329, meaning section 329 of act July 1, 1944, which was omitted in the general amendment of subpart I (§ 254b et seq.) of part D of subchapter II of this chapter by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626.


The Social Security Act, referred to in subsecs. (m)(2) and (o)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of this title.

Amendments

2010—Subsec. (o)(1). Pub. L. 111–148 inserted ‘‘, or an officer, governing board member, employee, or contrac-
note set out under section 201 of this title] is deemed to have taken effect immediately after the enactment of Public Law 107–251 (Oct. 26, 2002)."

Amendment by Pub. L. 108–20, § 3(i), Apr. 30, 2003, 117 Stat. 649, provided that: "This section [amending this section] shall take effect as of November 25, 2002."

**Effective Date of 2002 Amendment**

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

**Effective Date of 1996 Amendment**

Section 5 of Pub. L. 104–239, as amended by Pub. L. 104–238, div. A, title I, § 101(e) [title V, § 521], Sept. 30, 1996, 110 Stat. 2298–2299, 2309–275, provided that: "This Act (enacting sections 254b and 254c of this title, amending this section and sections 256c, 1399X, and 1396d of this title, repealing sections 256 and 256a of this title, and enacting provisions set out as notes under sections 201 and 254b of this title) and the amendments made by this Act shall become effective on October 1, 1996."

[Section 101(e) [title V, § 521] of Pub. L. 104–238 provided that the amendment made by that section is effective on the day after Oct. 11, 1996.]

**Effective Date of 1995 Amendment**

Section 5(c) of Pub. L. 104–73 provided that: "If, on the day before the date of the enactment of this Act [Dec. 26, 1995], an entity was deemed to be an employee of the Public Health Service for purposes of section 224(g) of the Public Health Service Act [subsec. (g) of this section], the condition under paragraph (1)(D) of such section (as added by subsection (a) of this section) that an application be approved with respect to the entity does not apply until the expiration of the 180-day period beginning on such date."

**Effective Date of 1992 Amendment**

Section 6 of Pub. L. 102–501 provided that: "The amendments made by this Act [amending this section] shall take effect on the date of the enactment of this Act [Oct. 24, 1992]."

**Report on Risk Exposure of Covered Entities**


"(a) IN GENERAL.—Not later than April 1, 1995, the Attorney General, in consultation with the Secretary of Health and Human Services (hereinafter referred to as the Secretary), shall submit a report to Congress on the medical malpractice liability claims experience of the 'Secretary', shall submit a report to Congress on the medical malpractice liability claims experience of entities subject to section 224(g) of the Public Health Service Act [subsec. (g) of this section], the condition under paragraph (1)(D) of such section (as added by subsection (a) of this section) that an application be approved with respect to the entity does not apply until the expiration of the 180-day period beginning on such date."

**Effective Date of 1999 Amendment**

Section 5(c) of Pub. L. 104–73 provided that: "If, on the day before the date of the enactment of this Act [Dec. 26, 1995], an entity was deemed to be an employee of the Public Health Service for purposes of section 224(g) of the Public Health Service Act [subsec. (g) of this section], the condition under paragraph (1)(D) of such section (as added by subsection (a) of this section) that an application be approved with respect to the entity does not apply until the expiration of the 180-day period beginning on such date."

**Effective Date of 1995 Amendment**

Section 5(c) of Pub. L. 104–73 provided that: "If, on the day before the date of the enactment of this Act [Dec. 26, 1995], an entity was deemed to be an employee of the Public Health Service for purposes of section 224(g) of the Public Health Service Act [subsec. (g) of this section], the condition under paragraph (1)(D) of such section (as added by subsection (a) of this section) that an application be approved with respect to the entity does not apply until the expiration of the 180-day period beginning on such date."

**Effective Date of 1992 Amendment**

Section 6 of Pub. L. 102–501 provided that: "The amendments made by this Act [amending this section] shall take effect on the date of the enactment of this Act [Oct. 24, 1992]."

**References in Text**

Subchapter V and VI of this chapter, referred to in text, are classified to sections 292 et seq. and 296 et seq., respectively, of this title.

Subchapter VII of this chapter, referred to in text, which was classified to section 299 et seq. of this title, was repealed by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 485.

Section 246(d) of this title, referred to in text, was repealed by Pub. L. 97–35, title IX, § 902(b), Aug. 13, 1981, 95 Stat. 559.

Section 246(e) of this title, referred to in text, was repealed by Pub. L. 94–63, title V, § 501(b), July 29, 1975, 89 Stat. 346.

**Amendments**

AMENDMENTS

1971—Pub. L. 92–157 provided for administration of programs established under subchapters V and VI of this chapter.

§ 236. Orphan Products Board

(a) Establishment; composition; chairman

There is established in the Department of Health and Human Services a board for the development of drugs (including biologics) and devices (including diagnostic products) for rare diseases or conditions to be known as the Orphan Products Board. The Board shall be comprised of the Assistant Secretary for Health of the Department of Health and Human Services and representatives, selected by the Secretary, of the Food and Drug Administration, the National Institutes of Health, the Centers for Disease Control and Prevention, and any other Federal department or agency which the Secretary determines has activities relating to drugs and devices for rare diseases or conditions. The Assistant Secretary for Health shall chair the Board.

(b) Function

The function of the Board shall be to promote the development of drugs and devices for rare diseases or conditions and the coordination among Federal, other public, and private agencies in carrying out their respective functions relating to the development of such articles for such diseases or conditions.

(c) Duties with respect to drugs for rare diseases or conditions

In the case of drugs for rare diseases or conditions the Board shall—

(1) evaluate—

   (A) the effect of subchapter B of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 360aa et seq.] on the development of such drugs, and

   (B) the implementation of such subchapter;¹

(2) evaluate the activities of the National Institutes of Health for the development of drugs for such diseases or conditions,

(3) assure appropriate coordination among the Food and Drug Administration, the National Institutes of Health and the Centers for Disease Control and Prevention in the carrying out of their respective functions relating to the development of drugs for such diseases or conditions to assure that the activities of each agency are complementary,

(4) assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients, in their activities relating to such drugs,

(5) with the consent of the sponsor of a drug for a rare disease or condition exempt under section 505(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(j)] or regulations issued under such section, inform physicians and the public respecting the availability of such drug for such disease or condition and inform physicians and the public respecting the availability of drugs approved under section 505(c) of such Act [21 U.S.C. 355(c)] or licensed under section 262 of this title for rare diseases or conditions,

(6) seek business entities and others to undertake the sponsorship of drugs for rare diseases or conditions, seek investigators to facilitate the development of such drugs, and seek business entities to participate in the distribution of such drugs, and

(7) recognize the efforts of public and private entities and individuals in seeking the development of drugs for rare diseases or conditions and in developing such drugs.

(d) Consultation

The Board shall consult with interested persons respecting the activities of the Board under this section and as part of such consultation shall provide the opportunity for the submission of oral views.

(e) Annual report; contents

The Board shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report—

(1) identifying the drugs which have been designated under section 520 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 360bb] for a rare disease or condition,

(2) describing the activities of the Board, and

(3) containing the results of the evaluations carried out by the Board.

The Director of the National Institutes of Health shall submit to the Board for inclusion in the annual report a report on the rare disease and condition research activities of the Institutes of the National Institutes of Health; the Secretary of the Treasury shall submit to the Board for inclusion in the annual report a report on the use of the credit against tax provided by section 44H² of title 26; and the Secretary of Health and Human Services shall submit to the Board for inclusion in the annual report a report on the program of assistance under section 360ee of title 21 for the development of drugs for rare diseases and conditions. Each annual report shall be submitted by June 1 of each year for the preceding calendar year.

References in Text


Section 44H of title 26, referred to in subsec. (e), was renumbered section 28 of title 26, by Pub. L. 98–166, div.

¹See in original. The semicolon probably should be a comma.

²See References in Text note below.

PRIOR PROVISIONS

AMENDMENTS

Subsec. (c)(2), Pub. L. 102–322, §163(b)(1)(A), which directed the striking out of “, and the Alcohol, Drug Abuse, and Mental Health Administration”, was executed by striking “and the Alcohol, Drug Abuse, and Mental Health Administration” after “National Institutes of Health” to reflect the probable intent of Congress.

Subsec. (c)(3). Pub. L. 102–531 substituted “Centers for Disease Control and Prevention” for “Centers for Disease Control”.

Pub. L. 102–322, §163(b)(1)(B), struck out “, the Alcohol, Drug Abuse, and Mental Health Administration,” after “National Institutes of Health”.

Subsec. (e). Pub. L. 102–322, §163(b)(1)(C), (D), in concluding provisions, struck out “and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration” after “National Institutes of Health” the first place appearing and “and the Alcohol, Drug Abuse, and Mental Health Administration” after “National Institutes of Health” the second place appearing.


CHANGE OF NAME
Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Energy and Commerce of House of Representatives treated as retaining to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title III, notwithstanding provisions of title 21 when used to fund research on rare diseases; and other diseases which can be used in the prevention, diagnosis, and treatment of rare diseases.

(c) Review Requirements.—In assessing the activities of the National Institutes of Health, the Food and Drug Administration, other public agencies, and private entities in connection with—

(1) basic research conducted on rare diseases;

(2) the use in research on rare diseases of knowledge developed in other research;

(3) applied and clinical research on the prevention, diagnosis, and treatment of rare diseases; and

(4) the dissemination to the public, health care professionals, researchers, and drug and medical device manufacturers of knowledge developed in research on rare diseases and other diseases which can be used in the prevention, diagnosis, and treatment of rare diseases.

Use of ‘CDC’ as Acronym for Centers for Disease Control and Prevention
Section 3121 of Pub. L. 102–531 provided that: “The amendments made by this section (amending this section, sections 241, 281b to 286b–2, 286c–4, 286d–7, 285m–4, 286c, 286x–9, 286b–1, 300u–5, 300a–2, 300a–19, 300a–26, 300cc, 300cc–2, 300cc–15, 300cc–17, 300cc–20, 300cc–31, 300cc–32, 300cc–34, 300ff–11 to 300ff–13, 300ff–17, 300ff–27, 300ff–28, 300ff–41, 300ff–43, 300ff–49, 300ff–75, 4941, and 9604 of this title, section 1341 of Title 15, Commerce and Trade, section 201 of Title 25, Indians, and provisions set out as notes under sections 241 and 281 of this title and section 303 of Title 31, Veterans’ Benefits] may not be construed as prohibiting the Director of the Centers for Disease Control and Prevention from utilizing for official purposes the term ‘CDC’ as an acronym for such Centers.”

National Commission on Orphan Diseases

(a) Establishment.—There is established the National Commission on Orphan Diseases (hereinafter referred to as the “Commission”).

(b) Duties.—The Commission shall assess the activities of the National Institutes of Health, the Food and Drug Administration, other public agencies, and private entities in connection with—

(1) basic research conducted on rare diseases;

(2) the use in research on rare diseases of knowledge developed in other research;

(3) applied and clinical research on the prevention, diagnosis, and treatment of rare diseases; and

(4) the dissemination to the public, health care professionals, researchers, and drug and medical device manufacturers of knowledge developed in research on rare diseases and other diseases which can be used in the prevention, diagnosis, and treatment of rare diseases.

Effective Date of 1992 Amendment
Pub. L. 102–321, title VIII, §801, July 10, 1992, 106 Stat. 441, provided that:

(a) in general.—This Act [See Tables for classification] takes effect on the date of the enactment of this Act [July 10, 1992], subject to subsections (b) through (d).

(b) Amendments.—The amendments described in this Act are made on the date of the enactment of this Act and take effect on such date, except as provided in subsections (c) and (d).

(c) Reorganization Under Title I.—Title I [§§101–171] takes effect on October 1, 1992. The amendments described in such title are made on such date and take effect on such date.

(d) Programs Providing Financial Assistance.—

(1) Fiscal Year 1992 and Subsequent Years.—In the case of any program making awards of grants, co-operative agreements, or contracts, the amendments made by this Act are effective for awards made on or after October 1, 1992.

(2) Prior Fiscal Years.—

(A) Except as provided in subparagraph (B), in the case of any program making awards of grants, cooperative agreements, or contracts, if the program began operations prior to the date of the enactment of this Act [July 10, 1992] and the program is amended by this Act, awards made prior to October 1, 1992, shall continue to be subject to the terms and conditions upon which such awards were made, notwithstanding the amendments made by this Act.

(B) Subparagraph (A) does not apply with respect to the amendments made by this Act to part B of title XIX of the Public Health Service Act [section 300x et seq. of this title]. Section 205(a) [set out as a note under section 300x of this title] applies with respect to the program established in such part.

Termination of Reporting Requirements
For termination, effective May 15, 2000, of provisions in subsec. (e) of this section relating to the requirement to submit an annual report to certain committees of Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 191 of House Document No. 103–7.
§ 237. Silvio O. Conte Senior Biomedical Research Service

(a) Creation; number of members
(1) There shall be in the Public Health Service a Silvio O. Conte Senior Biomedical Research Service, not to exceed 500 members.

(2) The authority established in paragraph (1) regarding the number of members in the Silvio O. Conte Senior Biomedical Research Service is in addition to any authority established regarding the number of members in the commissioned Regular Corps, in the Reserve Corps, and in the Senior Executive Service. Such paragraph may not be construed to require that the number of members in the commissioned Regular Corps, in the Reserve Corps, or in the Senior Executive Service be reduced to offset the number of members serving in the Silvio O. Conte Senior Biomedical Research Service in this section referred to as the "Service". 

§ 237. Title 42—The Public Health and Welfare
(b) Appointments; qualifications; provisions inapplicable to members

The Service shall be appointed by the Secretary without regard to the provisions of title 5 regarding appointment, and shall consist of individuals outstanding in the field of biomedical research or clinical research evaluation. No individual may be appointed to the Service unless such individual (1) has earned a doctoral level degree in biomedicine or a related field, and (2) meets the qualification standards prescribed by the Office of Personnel Management for appointment to a position at GS–15 of the General Schedule. Notwithstanding any previous applicability to an individual who is a member of the Service, the provisions of subchapter I of chapter 35 (relating to retention preference), chapter 43 (relating to performance appraisal and performance actions), chapter 51 (relating to classification), subchapter III of chapter 53 (relating to General Schedule pay rates), and chapter 75 (relating to adverse actions) of title 5 shall not apply to any member of the Service.

(c) Performance appraisal system

The Secretary shall develop a performance appraisal system designed to—

(1) provide for the systematic appraisal of the performance of members, and
(2) encourage excellence in performance by members.

(d) Pay of members

(1) The Secretary shall determine, subject to the provisions of this subsection, the pay of members of the Service.
(2) The pay of a member of the Service shall not be less than the minimum rate payable for GS–15 of the General Schedule and shall not exceed the rate payable for level I of the Executive Schedule unless approved by the President under section 5377(d)(2) of title 5.

(e) Contribution to retirement system of institutions of higher education

The Secretary may, upon the request of a member who—

(1) performed service in the employ of an institution of higher education immediately prior to his appointment as a member of the Service, and
(2) retains the right to continue to make contributions to the retirement system of such institution,

contribute an amount not to exceed 10 percent per annum of the member’s basic pay to such institution’s retirement system on behalf of such member, provided that such contribution made shall not be covered by, or earn service credit under, any retirement system established for employees of the United States under title 5, but such service shall be creditable for determining years of service under section 6301(a) of such title.

(f) Career and noncareer appointment of certain individuals

Subject to the following sentence, the Secretary may, notwithstanding the provisions of title 5 regarding appointment, appoint an individual who is separated from the Service involuntarily and without cause to a position in the competitive civil service at GS–15 of the General Schedule, and such appointment shall be a career appointment. In the case of such an individual who immediately prior to his appointment to the Service was not a career appointee in the civil service or the Senior Executive Service, such appointment shall be in the excepted civil service and may not exceed a period of 2 years.

(g) Rules and regulations

The Secretary shall promulgate such rules and regulations, not inconsistent with this section, as may be necessary for the efficient administration of the Service.


REFERENCES IN TEXT

The General Schedule, referred to in subsecs. (b), (d)(2), and (f), is set out under section 5332 of Title 5, Government Organization and Employees.

The provisions of title 5 regarding appointments, referred to in subsec. (b) and (f), are classified to section 3301 et seq. of Title 5.

Level I of the Executive Schedule, referred to in subsec. (d)(2), is set out in section 5312 of Title 5.

AMENDMENTS

1990—Pub. L. 101–43, § 2001(b), substituted “Silvio O. Conte Senior Biomedical Research Service” for “Senior Biomedical Research Service” in section catchline. Subsec. (a), Pub. L. 103–43, § 2001(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There shall be in the Public Health Service a Senior Biomedical Research Service (hereinafter in this section referred to as the ‘Service’), not to exceed 350 members at any time.”

EFFECTIVE DATE

Section effective on the 90th day following Nov. 5, 1990, see section 529 (title III, § 304(c)) of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 212 of this title.

§ 237a. Health and Human Services Office on Women’s Health

(a) Establishment of Office

There is established within the Office of the Secretary, an Office on Women’s Health (referred to in this section as the “Office”). The Office shall be headed by a Deputy Assistant Secretary for Women’s Health who may report to the Secretary.

(b) Duties

The Secretary, acting through the Office, with respect to the health concerns of women, shall—

(1) establish short-range and long-range goals and objectives within the Department of Health and Human Services and, as relevant and appropriate, coordinate with other appropriate offices on activities within the Department that relate to disease prevention, health promotion, service delivery, research, and public and health care professional education, for issues of particular concern to women throughout their lifespan;\(^1\)

(2) provide expert advice and consultation to the Secretary concerning scientific, legal, eth-\(^1\) So in original. Probably should be “lifespans.”


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ical, and policy issues relating to women's health;
(3) monitor the Department of Health and Human Services' offices, agencies, and regional activities regarding women's health and identify needs regarding the coordination of activities, including intramural and extramural multidisciplinary activities;
(4) establish a Department of Health and Human Services Coordinating Committee on Women's Health, which shall be chaired by the Deputy Assistant Secretary for Women's Health and composed of senior level representatives from each of the agencies and offices of the Department of Health and Human Services;
(5) establish a National Women's Health Information Center to—
(A) facilitate the exchange of information regarding matters relating to health information, health promotion, preventive health services, research advances, and education in the appropriate use of health care;
(B) facilitate access to such information;
(C) assist in the analysis of issues and problems relating to the matters described in this paragraph; and
(D) provide technical assistance with respect to the exchange of information (including facilitating the development of materials for such technical assistance);
(6) coordinate efforts to promote women's health programs and policies with the private sector and
(7) through publications and any other means appropriate, provide for the exchange of information between the Office and recipients of grants, contracts, and agreements under subsection (c), and between the Office and health professionals and the general public.

(c) Grants and contracts regarding duties

(1) Authority

In carrying out subsection (b), the Secretary may make grants to, and enter into cooperative agreements, contracts, and interagency agreements with, public and private entities, agencies, and organizations.

(2) Evaluation and dissemination

The Secretary shall directly or through contracts with public and private entities, agencies, and organizations, provide for evaluations of projects carried out with financial assistance provided under paragraph (1) and for the dissemination of information developed as a result of such projects.

(d) Reports

Not later than 1 year after March 23, 2010, and every second year thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing the activities carried out under this section during the period for which the report is being prepared.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.
PART B—MISCELLANEOUS PROVISIONS

CODIFICATION

This part was classified to subchapter XXV (§300aaa et seq.) of this chapter prior to its renumbering by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.

§ 238. Gifts for benefit of Service

(a) Acceptance by Secretary

The Secretary of Health and Human Services is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Depository of funds; availability for expenditure

Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or subsection (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States and are hereby appropriated and shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(c) Evidences of unconditional gifts of intangible property

The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary of Health and Human Services, whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) Real property or tangible personal property

The Secretary of Health and Human Services shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: Provided, That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary of Health and Human Services for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary of Health and Human Services, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.


CODIFICATION

Section was formerly classified to section 300aaa of this title prior to renumbering by Pub. L. 103–43, to section 300cc of this title prior to renumbering by Pub. L. 100–607, to section 300aa of this title prior to renumbering by Pub. L. 99–660, and to section 219 of this title prior to renumbering by Pub. L. 98–24.

AMENDMENTS

1968—Subsec. (e). Pub. L. 90–574 struck out subsec. (e) which provided for acknowledgment of donations of $50,000 or more in aid of research by the establishment of suitable memorials within the National Institutes of Health and the National Institute of Mental Health.

1948—Subsec. (e). Act June 16, 1948, substituted “National Institutes of Health” for “National Institute of Health”.


TRANSFER OF FUNCTIONS


Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 508(b) of Pub. L. 96–88 which is classified to section 3588(b) of Title 20, Education.

§ 238a. Use of immigration station hospitals

The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatment under section 249(a) of this title.


References in Text

Subsec. (a) of section 249 of this title, referred to in text, which related to persons entitled to care and treatment without charge, was repealed, and subsec. (c) of section 249 of this title was redesignated as subsec. (a), by Pub. L. 97–35, title IX, §986(a), (b)(2), Aug. 13, 1982, 96 Stat. 563.

Codification

Section was formerly classified to section 300aaa–2 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–2 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–2 of this title prior to renumbering by Pub. L. 99–660, and to section 221 of this title prior to renumbering by Pub. L. 98–24.

§ 238b. Disposition of money collected for care of patients

Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation from which the expenses of such care and treatment were paid.


Codification

Section was formerly classified to section 300aaa–2 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–2 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–2 of this title prior to renumbering by Pub. L. 99–660, and to section 221 of this title prior to renumbering by Pub. L. 98–24.

§ 238c. Transportation of remains of officers

Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. Appropriations available for carrying out the provisions of this chapter shall also be available for the payment of such expenses relating to the recovery, care and disposition of the remains of personnel or their dependents as may be authorized under other provisions of law.

(July 1, 1944, ch. 373, title II, §234, formerly title V, §506, 58 Stat. 710; July 15, 1954, ch. 507, §14(b),
functions of the Public Health Service, and all other officers and em-
ployees of the Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 1610, set out as a note under section 202 of this title. 

Codification

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 1610, set out as a note under section 202 of this title. 

Amendments

1954—Act July 15, 1954, inserted sentence at end relating to availability of appropriations for paying expenses relating to recovery, care, and disposition of the remains of personnel or their dependents.

Transfer of Functions

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 1610, set out as a note under section 202 of this title. 

Disposition of Remains of Deceased Personnel

Recovery, care and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

§ 238d. Availability of appropriations for grants to Federal institutions

Appropriations to the Public Health Service available under this chapter for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence and appropriations under title VI of the Mental Health Systems Act [42 U.S.C. 9511 et seq.] shall also be available on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to Federal institutions, except that grants to Federal institutions may be funded at 100 per centum of the costs.


### § 238f. Availability of appropriations

Appropriations for carrying out the purposes of this chapter shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, and quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institutes of Health.


**CODIFICATION**

Section was formerly classified to section 300aa–5 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–7 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–7 of this title prior to renumbering by Pub. L. 99–660, and to section 226 of this title prior to renumbering by Pub. L. 98–24.

**TRANSFER OF FUNCTIONS**


Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 98–24, which is classified to section 3508(b) of Title 20, Education.

**§ 238f. Availability of appropriations**

Appropriations for carrying out the purposes of this chapter shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, and quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institutes of Health.


**CODIFICATION**

Section was formerly classified to section 300aa–6 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–8 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–6 of this title prior to renumbering by Pub. L. 99–660, and to section 227 of this title prior to renumbering by Pub. L. 98–24.

**AMENDMENTS**

1948—Act June 25, 1948, amended section generally to make it apply to all appropriations to carry out the purposes of the Service instead of merely to appropriations to carry out the research functions of the Service. Act June 16, 1948, substituted “National Institutes of Health” for “National Institute of Health”.

**TRANSFER OF FUNCTIONS**

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

**BUY AMERICAN PROVISIONS**


“(a) SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided pursuant to this Act for any of the fiscal years 1994 through 1996, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance pursuant to this Act, the Secretary of Health and Human Services shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.”

AVAILABILITY OF APPROPRIATIONS FOR ACTIVE COMMISSIONED OFFICERS AND OTHER EXPENSES

Pub. L. 102–394, title II, § 202, Oct. 6, 1992, 106 Stat. 1810, as amended by Pub. L. 111–8, div. F, title II, § 222, Mar. 11, 2009, 123 Stat. 766; Pub. L. 111–148, title V, § 5209, Mar. 23, 2010, 124 Stat. 613, provided that: “Appropriations in this or any other Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary school-aging of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act (42 U.S.C. 207(f), (g))", at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5370.”

[Pub. L. 111–148, § 5209, which directed amendment of Pub. L. 102–394, § 202, set out above, by striking out “not to exceed 2,800" in section 207(f)]

Except as otherwise provided, reference to maximum rate under section 5376 of Title 5, Government Organizations and Employees, before first day of first pay period beginning on or after 180th day after Oct. 8, 2008, considered reference to basic pay rate for level IV of Executive Schedule (5 U.S.C. 5315) and reference to maximum rate on or after first day of first pay period beginning on or after 180th day after Oct. 8, 2008, considered reference to basic pay rate for level III of Executive Schedule (5 U.S.C. 5314), or for level II of the Executive Schedule (5 U.S.C. 5313) for certain employees, see section 2(d)(3) of Pub. L. 110–372, set out as an Effective Date of 2008 Amendment note under section 5376 of Title 5.

Similar provisions were contained in the following prior appropriation acts:


§ 238g. Wearing of uniforms

Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service.


CREDITING OF PAYMENTS FOR ROOM AND BOARD TO APPROPRIATION ACCOUNTS

Pub. L. 102–394, title II, § 206, Oct. 6, 1992, 106 Stat. 1811, provided that: “Hereafter amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.”

Similar provisions were contained in the following prior appropriation acts:


$238g. Wearing of uniforms

Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service.


CODIFICATION

Section was formerly classified to section 300aaa–7 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–9 of this title prior to renumbering by Pub. L. 100–487, to section 300aa–9 of this title prior to renumbering by Pub. L. 99–660, and to section 228 of this title prior to renumbering by Pub. L. 98–24.

AMENDMENTS


EFFECTIVE DATE OF 1948 AMENDMENT

Amendment effective Sept. 1, 1948, see section 20 of act June 25, 1948.

TRANSFER OF FUNCTIONS

§ 238h. Title 42—The Public Health and Welfare

1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

DELEGATION OF FUNCTIONS

Functions of President delegated to Secretary of Health and Human Services, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, as amended, set out as a note under section 202 of this title.

§ 238h. Biennial report


CODIFICATION

Section was formerly classified to section 300aa-8 of this title prior to renumbering by Pub. L. 103-43, to section 300cc-10 of this title prior to renumbering by Pub. L. 104-66, to section 300aa-10 of this title prior to renumbering by Pub. L. 99-660, and to section 229 of this title prior to renumbering by Pub. L. 98-94.

AMENDMENTS

1995—Pub. L. 104-66 amended section catchline and text generally. Prior to amendment, text read as follows: “The Surgeon General shall transmit to the Secretary for submission to Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this chapter, including a detailed statement of receipts and disbursements.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which item 3 on page 101 identifies a reporting provision which, as subsequently amended, is contained in this section), see section 3003 of Pub. L. 104-66, as amended, and section 1a(a)(4) [div. A, § 1492(1)] of Pub. L. 106-554, set out as notes under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 23, 1966, 31 F.R. 8555, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 262 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.


AGENCY REPORTING REQUIREMENTS; REPORT BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE TO CONGRESSIONAL COMMITTEES RELATING TO REQUIREMENTS, TERMINATION, ETC.

Pub. L. 93-641, § 7, Jan. 4, 1975, 88 Stat. 2275, provided that by Jan. 4, 1976, the Secretary of Health, Education, and Welfare report to specific committees of the Senate and the House of Representatives on the identity, due date, etc., of certain reports required under the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970.

§ 238j. Evaluation of programs

(a) In general

Such portion as the Secretary shall determine, but not less than 0.2 percent nor more than 1 percent, of any amounts appropriated for programs authorized under this chapter shall be made available for the evaluation (directly, or by grants of contracts) of the implementation and effectiveness of such programs.

(b) Report on evaluations

Not later than February 1 of each year, the Secretary shall prepare and submit to the Com-
mittee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the findings of the evaluations conducted under subsection (a) of this section.


Codification

Section was formerly classified to section 300aaa–10 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–12 of this title prior to renumbering by Pub. L. 99–660, to section 229b of this title prior to renumbering by Pub. L. 98–24.

AMENDMENTS

1993—Pub. L. 103–183 amended section generally. Prior to amendment, section read as follows: "Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this chapter, the Mental Health Systems Act, the Act of August 5, 1981—Pub. L. 97–35 struck out references to Mental Health Systems Act.


Change of Name

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

(a)(1) of this section, or the owner of a facility the use of which changes as described in subsection (a)(2) of this section, shall provide the Secretary written notice of such sale, transfer, or change within 10 days after the date on which such sale, transfer, or cessation of use occurs or within 30 days after October 22, 1985, whichever is later.

(c) Base amount; interest

(1) The base amount that the United States is entitled to recover under subsection (a) of this section is the amount bearing the same ratio to the then value (as determined by the agreement described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned during that period.

(B) The period referred to in subparagraph (A) is the period beginning—

(i) if notice is provided as prescribed by subsection (b) of this section, 191 days after the date on which such sale, transfer, or cessation of use occurs, or

(ii) if notice is not provided as prescribed by subsection (b) of this section, 11 days after such sale, transfer, or cessation of use occurs, and ending on the date the amount the United States is entitled to recover is collected.

(d) Waiver of recovery rights

The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility (under such conditions as the Secretary may establish by regulation) in the event that the Secretary determines that there is good cause for waiving such rights.

(e) Pre-judgment lien

The right of recovery of the United States under subsection (a) of this section shall not, prior to judgment, constitute a lien on any facility.

(July 1, 1944, ch. 373, title II, §243, formerly title V, §515, formerly Pub. L. 88–164, title II, §225, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 326; amended Pub. L. 95–622, title I, §110(c), Nov. 9, 1978, 92 Stat. 3420; renumbered title V, §515, and amended Pub. L. 97–35, title IX, §902(e)(2)(A), Aug. 13, 1981, 95 Stat. 560; section read as follows: "If any facility of a community mental health center acquired, remodeled, constructed, or expanded with funds provided under the Community Mental Health Centers Act is, at any time within twenty years after the completion of such remodeling, construction, or expansion or after the date of its acquisition with such funds—

"(1) sold to or transferred to any person or entity (A) which is not qualified to file an application under section 222 of the Community Mental Health Centers Act, or (B) which is not approved as a transferee by the State agency of the State in which such facility is located, or its successor; or

"(2) not used by a community mental health center in the provision of comprehensive mental health services, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the transferee or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects.

(f) Determination of amount

The amount for which the United States is entitled to recover under subsection (b) of this section is the amount bearing the same ratio to the cost of the remodeling, construction, expansion, or acquisition of the project or projects as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects.

(2)(A) The interest of the United States is entitled to recover under subsection (a) of this section is the amount bearing the same ratio to the then value (as determined by the agreement described in subparagraph (B)) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects.

(B) The period referred to in subparagraph (A) is the period beginning—

(i) if notice is provided as prescribed by subsection (b) of this section, 191 days after the date on which such sale, transfer, or cessation of use occurs, or

(ii) if notice is not provided as prescribed by subsection (b) of this section, 11 days after such sale, transfer, or cessation of use occurs, and ending on the date the amount the United States is entitled to recover is collected.

(d) Waiver of recovery rights

The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

(e) Pre-judgment lien

The right of recovery of the United States under subsection (a) of this section shall not, prior to judgment, constitute a lien on any facility.

(3) The base amount that the United States is entitled to recover under subsection (a) of this section is the amount bearing the same ratio to the then value (as determined by the agreement described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned during that period.)

The amount for which the United States is entitled to recover under subsection (b) of this section is the amount bearing the same ratio to the then value (as determined by the agreement described in subparagraph (B)) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects.

Section was classified to section 306aa–12 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–14 of this title prior to renumbering by Pub. L. 100–607, to section 306aa–14 of this title prior to renumbering by Pub. L. 99–660, to section 229d of this title prior to renumbering by Pub. L. 98–24, and to section 2689m of this title prior to renumbering by Pub. L. 97–35.

Amendments


1985—Pub. L. 99–129 amended section generally. Prior to amendment, section read as follows: “If any facility of a community mental health center acquired, remodeled, constructed, or expanded with funds provided under the Community Mental Health Centers Act is, at any time within twenty years after the completion of such remodeling, construction, or expansion or after the date of its acquisition with such funds—

"(1) sold to or transferred to any person or entity (A) which is not qualified to file an application under section 222 of the Community Mental Health Centers Act, or (B) which is not approved as a transferee by the State agency of the State in which such facility is located, or its successor; or

"(2) not used by a community mental health center in the provision of comprehensive mental health services, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the transferee or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the district in which the center is situated) of so much of such facility or center as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of such projects. Such right of recovery shall not constitute a lien upon such facility or center prior to judgment.”

1981—Pub. L. 97–35 substituted “the Community Mental Health Centers Act” for “this subchapter” and “section 222 of the Community Mental Health Centers Act” for “section 2689m of this title”.

1979—Pub. L. 95–622 substituted “this subchapter” for “this part”.

Effective Date of 1985 Amendment

Pub. L. 99–129, title II, §226(b), Oct. 22, 1985, 99 Stat. 547, provided that: “In the case of any facility that was or is constructed, remodeled, expanded, or acquired on or before the date of enactment of this Act (Oct. 22, 1985) or within 180 days after the date of enactment of this Act, the period described in clause (i) or (ii) of section 2215(c)(2)(B) (now 243(c)(2)(B)) of the Public Health Service Act [subsec. (c)(2)(B)(i), (ii)
of this section] (as amended by subsection (a) of this section) shall begin no earlier than 181 days after the date of enactment of this Act.’’

Effective Date of 1981 Amendment
Section 902(h) of Pub. L. 97–35 provided that: ‘‘The amendments made by this section [amending this section and sections 201, 225a (now 238d), 229b (now 238j), 243, 246, 289k–1, 300d–4, 300d–6, 300l–2, 300m, 300m–3, 9412, and 9511 of this title, repealing sections 247b–1, 247b–2, 255, 300l to 300d–3, 300d–5, 300d–7 to 300d–9, 2689 to 2689m, 2689n to 2689r, 2689s to 2689u, 9411, 9421 to 9423, 9431 to 9438, 9451, 9452, 9461 to 9465, 9471 to 9473, 9481, 9491 to 9493, 9502, 9512, 9521, and 9523 of this title, repealing provisions set out as notes under sections 246 and 2689 of this title, and transferring section 2689m to section 229d [now 238j] of this title) shall take effect October 1, 1981.’’

Effective Date of 1978 Amendment
Section 110(c) of Pub. L. 95–622 provided that: ‘‘The amendment made by subsection (a) of this section [amending this section] shall not adversely affect the legal rights of the United States.’’

§ 238m. Use of fiscal agents
(a) Contracting authority
The Secretary may enter into contracts with fiscal agents—
(1)(A) to determine the amounts payable to persons who, on behalf of the Indian Health Service, furnish health services to eligible Indians,
(B) to determine the amounts payable to persons who, on behalf of the Public Health Service, furnish health services to individuals pursuant to section 247d or 249 of this title,
(2) to receive, disburse, and account for funds in making payments described in paragraph (1),
(3) to make such audits of records as may be necessary to assure that these payments are proper, and
(4) to perform such additional functions as may be necessary to carry out the functions described in paragraphs (1) through (3).
(b) Contracting prerequisites
(1) Contracts under subsection (a) of this section may be entered into without regard to section 6101 of title 41 or any other provision of law requiring competition.
(2) No such contract shall be entered into with an entity unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.
(c) Advances under contracts
A contract under subsection (a) of this section may provide for advances of funds to enable entities to make payments under the contract.

(d) Applicable statutory provisions
Subsections (d) and (e) of section 1395u of this title shall apply to contracts with entities under subsection (a) of this section in the same manner as they apply to contracts with carriers under that section.

(e) Fiscally agent defined
In this section, the term ‘‘fiscal agent’’ means a carrier described in section 1395u(f)(1) of this title and includes, with respect to contracts under subsection (a)(1)(A) of this section, an Indian tribe or tribal organization acting under contract with the Secretary under the Indian Self-Determination Act (Public Law 93–638) [25 U.S.C. 450f et seq.].


(2) The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—
(1) the entity refuses to undergo training in the performance of induced abortions, or to provide such training, to perform such abortions, or to provide referrals for such training or such abortions;
(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

1 See References in Text note below.
§ 238o. Restriction on use of funds for assisted suicide, euthanasia, and mercy killing

Appropriations for carrying out the purposes of this chapter shall not be used in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997 [42 U.S.C. 14401 et seq.].

(With respect to a program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

(b) Accreditation of postgraduate physician training programs

(1) In general

In determining whether to grant a legal status to a health care entity (including a license or certificate), or to provide such entity with financial assistance, services or other benefits, the Federal Government, or any State or local government that receives Federal financial assistance, shall deem accredited any postgraduate physician training program that would be accredited but for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions.

The government involved shall formulate such regulations or other mechanisms, or enter into such agreements with accrediting agencies, as are necessary to comply with this subsection.

(2) Rules of construction

(A) In general

With respect to subclauses (I) and (II) of section 292d(a)(2)(B)(i) of this title (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

(B) Exceptions

This section shall not—

(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions; or

(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals who have voluntarily elected to perform abortions.

(c) Definitions

For purposes of this section:

(1) The term “financial assistance”, with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

(2) The term “health care entity” includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

(3) The term “postgraduate physician training program” includes a residency training program.

1So in original. Probably should be “standard”.

§ 238p. Recommendations and guidelines regarding automated external defibrillators for Federal buildings

(a) Guidelines on placement

The Secretary shall establish guidelines with respect to placing automated external defibrillator devices in Federal buildings. Such guidelines shall take into account the extent to which such devices may be used by lay persons, the typical number of employees and visitors in the buildings, the extent of the need for security measures regarding the buildings, buildings or portions of buildings in which there are special circumstances such as high electrical voltage or extreme heat or cold, and such other factors as the Secretary determines to be appropriate.

(b) Related recommendations

The Secretary shall publish in the Federal Register the recommendations of the Secretary on the appropriate implementation of the placement of automated external defibrillator devices under subsection (a) of this section, including procedures for the following:

(1) Implementing appropriate training courses in the use of such devices, including the role of cardiopulmonary resuscitation.

(2) Proper maintenance and testing of the devices.

(3) Ensuring coordination with appropriate licensed professionals in the oversight of training of the devices.

(4) Ensuring coordination with local emergency medical systems regarding the placement and incidents of use of the devices.

(c) Consultations; consideration of certain recommendations

In carrying out this section, the Secretary shall—
(1) consult with appropriate public and private entities;  
(2) consider the recommendations of national and local public-health organizations for improving the survival rates of individuals who experience cardiac arrest in nonhospital settings by minimizing the time elapsing between the onset of cardiac arrest and the initial medical response, including defibrillation as necessary; and  
(3) consult with and counsel other Federal agencies where such devices are to be used.  

(d) Date certain for establishing guidelines and recommendations  
The Secretary shall comply with this section not later than 180 days after November 13, 2000.  

(e) Definitions  
For purposes of this section:  
(1) The term “automated external defibrillator device” has the meaning given such term in section 238q of this title.  
(2) The term “Federal building” includes a building or portion of a building leased or rented by a Federal agency, and includes buildings on military installations of the United States.  

FINDINGS  
Pub. L. 106–505, title IV, § 403, Nov. 13, 2000, 114 Stat. 2337, provided that: “Congress makes the following findings:  
'(1) Over 700 lives are lost every day to sudden cardiac arrest in the United States alone.  
'(2) Two out of every three sudden cardiac deaths occur before a victim can reach a hospital.  
'(3) More than 95 percent of these cardiac arrest victims will die, many because of lack of readily available life saving medical equipment.  
'(4) With current medical technology, up to 30 percent of cardiac arrest victims could be saved if victims had access to immediate medical response, including defibrillation and cardiopulmonary resuscitation.  
'(5) Once a victim has suffered a cardiac arrest, every minute that passes before returning the heart to a normal rhythm decreases the chance of survival by 10 percent.  
'(6) Most cardiac arrests are caused by abnormal heart rhythms called ventricular fibrillation. Ventricular fibrillation occurs when the heart’s electrical system malfunctions, causing a chaotic rhythm that prevents the heart from pumping oxygen to the victim’s brain and body.  
'(7) Communities that have implemented programs ensuring widespread public access to defibrillators, combined with appropriate training, maintenance, and coordination with local emergency medical systems, have dramatically improved the survival rates from cardiac arrest.  
'(8) Automated external defibrillator devices have been demonstrated to be safe and effective, even when used by lay people, since the devices are designed not to allow a user to administer a shock until after the device has analyzed a victim’s heart rhythm and determined that an electric shock is required.  
'(9) Increasing public awareness regarding automated external defibrillator devices and encouraging their use in Federal buildings will greatly facilitate their adoption.  
'(10) Limiting the liability of Good Samaritans and acquirers of automated external defibrillator devices in emergency situations may encourage the use of automated external defibrillator devices, and result in saved lives.”  

CERTAIN TECHNOLOGIES AND PRACTICES REGARDING SURVIVAL RATES FOR CARDIAC ARREST  
Pub. L. 106–129, § 7, Dec. 6, 1999, 113 Stat. 1676, provided that: “The Secretary of Health and Human Services shall, in consultation with the Administrator of the General Services Administration and other appropriate public and private entities, develop recommendations regarding the placement of automatic external defibrillators in Federal buildings as a means of improving the survival rates of individuals who experience cardiac arrest in such buildings, including recommendations on training, maintenance, and medical oversight, and on coordinating with the system for emergency medical services.”  

§ 238q. Liability regarding emergency use of automated external defibrillators  

(a) Good Samaritan protections regarding AEDs  
Except as provided in subsection (b) of this section, any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency is immune from civil liability for any harm resulting from the use or attempted use of such device; and in addition, any person who acquired the device is immune from such liability, if the harm was not due to the failure of such acquirer of the device—  

(1) to notify local emergency response personnel or other appropriate entities of the most recent placement of the device within a reasonable period of time after the device was placed;  
(2) to properly maintain and test the device; or  
(3) to provide appropriate training in the use of the device to an employee or agent of the acquirer when the employee or agent was the person who used the device on the victim, except that such requirement of training does not apply if—  
(A) the employee or agent was not an employee or agent who would have been reasonably expected to use the device; or  
(B) the period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm (or between the acquisition of the device and the occurrence of the harm, in any case in which the device was acquired after such engagement of the person) was not a reasonably sufficient period in which to provide the training.  

(b) Inapplicability of immunity  
Immunity under subsection (a) of this section does not apply to a person if—  
(1) the harm involved was caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the victim who was harmed;  
(2) the person is a licensed or certified health professional who used the automated external defibrillator device while acting within the scope of the license or certification of the professional and within the scope of the employment or agency of the professional;
(3) the person is a hospital, clinic, or other entity whose purpose is providing health care directly to patients, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent; or

(4) the person is an acquirer of the device who leased the device to a health care entity (or who otherwise provided the device to such entity for compensation without selling the device to the entity), and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent.

c) Rules of construction

(1) In general

The following applies with respect to this section:

(A) This section does not establish any cause of action, or require that an automated external defibrillator device be placed at any building or other location.

(B) With respect to a class of persons for which this section provides immunity from civil liability, this section supercedes the law of a State only to the extent that the State has no statute or regulations that provide persons in such class with immunity for civil liability arising from the use by such persons of automated external defibrillator devices in emergency situations (within the meaning of the State law or regulation involved).

(C) This section does not waive any protection from liability for Federal officers or employees under—

(i) section 233 of this title; or

(ii) sections 1346(b), 2672, and 2679 of title 28 or under alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28.

(2) Civil actions under Federal law

(A) In general

The applicability of subsections (a) and (b) of this section includes applicability to any action for civil liability described in subsection (a) of this section that arises under Federal law.

(B) Federal areas adopting State law

If a geographic area is under Federal jurisdiction and is located within a State but out of the jurisdiction of the State, and if, pursuant to Federal law, the law of the State applies in such area regarding matters for which there is no applicable Federal law, then an action for civil liability described in subsection (a) of this section that in such area arises under the law of the State is subject to subsections (a) through (c) of this section in lieu of any related State law that would apply in such area in the absence of this subparagraph.

(d) Federal jurisdiction

In any civil action arising under State law, the courts of the State involved have jurisdiction to apply the provisions of this section exclusive of the jurisdiction of the courts of the United States.

e) Definitions

(1) Perceived medical emergency

For purposes of this section, the term “perceived medical emergency” means circumstances in which the behavior of an individual leads a reasonable person to believe that the individual is experiencing a life-threatening medical condition that requires an immediate medical response regarding the heart or other cardiopulmonary functioning of the individual.

(2) Other definitions

For purposes of this section:

(A) The term “automated external defibrillator device” means a defibrillator device that—

(i) is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.];

(ii) is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed;

(iii) upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual; and

(iv) in the case of a defibrillator device that may be operated in either an automated or a manual mode, is set to operate in the automated mode.

(B)(i) The term “harm” includes physical, nonphysical, economic, and noneconomic losses.

(ii) The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(iii) The term “noneconomic losses” means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

References in Text

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (e)(2)(A)(i), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.
§ 239. General provisions

(a) Definitions

For purposes of this part:

(1) Covered countermeasure

The term “covered countermeasure” means a covered countermeasure as specified in a Declaration made pursuant to section 233(p) of this title.

(2) Covered individual

The term “covered individual” means an individual—

(A) who is a health care worker, law enforcement officer, firefighter, security personnel, emergency medical personnel, other public safety personnel, or support personnel for such occupational specialties; or

(B) who is or will be functioning in a role identified in a State, local, or Department of Health and Human Services smallpox emergency response plan (as defined in paragraph (7)) approved by the Secretary;

(C) who has volunteered and been selected to be a member of a smallpox emergency response plan described in subparagraph (B) prior to the time at which the Secretary publicly announces that an active case of smallpox has been identified either within or outside of the United States; and

(D) to whom a smallpox vaccine is administered pursuant to such approved plan during the effective period of the Declaration (including the portion of such period before April 30, 2003).

(3) Covered injury

The term “covered injury” means an injury, disability, illness, condition, or death (other than a minor injury such as minor scarring or minor local reaction) determined, pursuant to the procedures established under section 239a of this title, to have been sustained by an individual as the direct result of—

(A) administration to the individual of a covered countermeasure during the effective period of the Declaration; or

(B) accidental vaccinia inoculation of the individual in circumstances in which—

(i) the vaccinia is contracted during the effective period of the Declaration or within 30 days after the end of such period;

(ii) smallpox vaccine has not been administered to the individual; and

(iii) the individual has been in contact with an individual who is (or who was accidentally inoculated by) a covered individual.

(4) Declaration


(5) Effective period of the Declaration

The term “effective period of the Declaration” means the effective period specified in the Declaration, unless extended by the Secretary.

(6) Eligible individual

The term “eligible individual” means an individual who is (as determined in accordance with section 239a of this title)—

(A) a covered individual who sustains a covered injury in the manner described in paragraph (3)(A); or

(B) an individual who sustains a covered injury in the manner described in paragraph (3)(B).

(7) Smallpox emergency response plan

The term “smallpox emergency response plan” or “plan” means a response plan detailing actions to be taken in preparation for a possible smallpox-related emergency during the period prior to the identification of an active case of smallpox either within or outside the United States.

(b) Voluntary program

The Secretary shall ensure that a State, local, or Department of Health and Human Services plan to vaccinate individuals that is approved by the Secretary establishes procedures to ensure, consistent with the Declaration and any applicable guidelines of the Centers for Disease Control and Prevention, that—

(1) potential participants are educated with respect to contraindications, the voluntary nature of the program, and the availability of potential benefits and compensation under this part;

(2) there is voluntary screening provided to potential participants that can identify health conditions relevant to contraindications; and

(3) there is appropriate post-inoculation medical surveillance that includes an evaluation of adverse health effects that may reasonably appear to be due to such vaccine and prompt referral of, or the provision of appropriate information to, any individual requiring health care as a result of such adverse health event.


§ 239a. Determination of eligibility and benefits

(a) In general

The Secretary shall establish procedures for determining, as applicable with respect to an individual—

(1) whether the individual is an eligible individual;

(2) whether an eligible individual has sustained a covered injury or injuries for which medical benefits or compensation may be available under sections 239c and 239d of this title, and the amount of such benefits or compensation; and

(3) whether the covered injury or injuries of an eligible individual caused the individual’s death for purposes of benefits under section 239e of this title.

(b) Covered individuals

The Secretary may accept a certification, by a Federal, State, or local government entity or
private health care entity participating in the administration of covered countermeasures under the Declaration, that an individual is a covered individual.

(c) Criteria for reimbursement

(1) Injuries specified in injury table

In any case where an injury or other adverse effect specified in the injury table established under section 239b of this title as a known effect of a vaccine manifests in an individual within the time period specified in such table, such injury or other effect shall be presumed to have resulted from administration of such vaccine.

(2) Other determinations

In making determinations other than those described in paragraph (1) as to the causation or severity of an injury, the Secretary shall employ a preponderance of the evidence standard and take into consideration all relevant medical and scientific evidence presented for consideration, and may obtain and consider the views of qualified medical experts.

(d) Deadline for filing request

The Secretary shall not consider any request for a benefit under this part with respect to an individual, unless—

(1) in the case of a request based on the administration of the vaccine to the individual, the individual files with the Secretary an initial request for benefits or compensation under this part not later than one year after the date of administration of the vaccine; or

(2) in the case of a request based on accidental vaccinia inoculation, the individual files with the Secretary an initial request for benefits or compensation under this part not later than two years after the date of the first symptom or manifestation of onset of the adverse effect.

(e) Structured settlements at Secretary’s option

In any case in which there is a reasonable likelihood that compensation or payment under section 239c, 239d, or 239e(b) of this title will be required for a period in excess of one year from the date an individual is determined eligible to receive under such section or benefits or compensation that the individual is present value of the projected total amount of payment, annuity, policy, or agreement is actuarially determined to have a value equal to the present value of the projected total amount of benefits or compensation that the individual is eligible to receive under such section or sections.

(f) Review of determination

(1) Secretary’s review authority

The Secretary may review a determination under this section at any time on the Secretary’s own motion or on application, and may affirm, vacate, or modify such determination in any manner the Secretary deems appropriate. The Secretary shall develop a process by which an individual may file a request for reconsideration of any determination made by the Secretary under this section.

(2) Judicial and administrative review

No court of the United States, or of any State, District, territory or possession thereof, shall have subject matter jurisdiction to review, whether by mandamus or otherwise, any action by the Secretary under this section. No officer or employee of the United States shall review any action by the Secretary under this section (unless the President specifically directs otherwise).


§ 239b. Smallpox vaccine injury table

(a) Smallpox vaccine injury table

(1) Establishment required

The Secretary shall establish by interim final regulation a table identifying adverse effects (including injuries, disabilities, illnesses, conditions, and deaths) that shall be presumed to result from the administration of (or exposure to) a smallpox vaccine, and the time period in which the first symptom or manifestation of onset of each such adverse effect must manifest in order for such presumption to apply.

(2) Amendments

The Secretary may by regulation amend the table established under paragraph (1). An amendment to the table takes effect on the date of the promulgation of the final rule that makes the amendment, and applies to all requests for benefits or compensation under this part that are filed on or after such date or are pending as of such date. In addition, the amendment applies retroactively to an individual who was not with respect to the injury involved an eligible individual under the table as in effect before the amendment but who with respect to such injury is an eligible individual under the table as amended. With respect to a request for benefits or compensation under this part by an individual who becomes an eligible individual as described in the preceding sentence, the Secretary may not provide such benefits or compensation unless the request (or amendment to a request, as applicable) is filed before the expiration of one year after the effective date of the amendment to the table in the case of an individual to whom the vaccine was administered and before the expiration of two years after such effective date in the case of a request based on accidental vaccinia inoculation.


§ 239c. Medical benefits

(a) In general

Subject to the succeeding provisions of this section, the Secretary shall make payment or reimbursement for medical items and services as reasonable and necessary to treat a covered injury of an eligible individual, including the services, appliances, and supplies prescribed or

1So in original. No subsec. (b) has been enacted.
recommended by a qualified physician, which the Secretary considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation.

(b) Benefits secondary to other coverage
Payment or reimbursement for services or benefits under subsection (a) of this section shall be secondary to any obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer) under any other provision of law or contractual agreement, to pay for or provide such services or benefits.


§239d. Compensation for lost employment income

(a) In general
Subject to the succeeding provisions of this section, the Secretary shall provide compensation to an eligible individual for loss of employment income (based on such income at the time of injury) incurred as a result of a covered injury, at the rate specified in subsection (b) of this section.

(b) Amount of compensation
(1) In general
Compensation under subsection (a) of this section shall be at the rate of 66 2/3 percent of the relevant pay period (weekly, monthly, or otherwise), except as provided in paragraph (2).

(2) Augmented compensation for dependents
If an eligible individual has one or more dependents, the basic compensation for loss of employment income as described in paragraph (1) shall be augmented at the rate of 8 1/3 percent.

(3) Consideration of other programs
(A) In general
The Secretary may consider the provisions of sections 8114, 8115, and 8146a of title 5, and any implementing regulations, in determining the amount of payment under subsection (a) of this section and the circumstances under which such payments are reasonable and necessary.

(B) Minors
With respect to an eligible individual who is a minor, the Secretary may consider the provisions of section 8113 of title 5, and any implementing regulations, in determining the amount of payment under subsection (a) of this section and the circumstances under which such payments are reasonable and necessary.

(4) Treatment of self-employment income
For purposes of this section, the term “employment income” includes income from self-employment.

c) Limitations
(1) Benefits secondary to other coverage
(A) In general
Any compensation under subsection (a) of this section shall be secondary to the obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer), under any other law or contractual agreement, to pay compensation for loss of employment income or to provide disability or retirement benefits.

(B) Relation to other obligations
Compensation under subsection (a) of this section shall not be made to an eligible individual to the extent that the total of amounts paid to the individual under such subsection and under the other obligations referred to in subparagraph (A) is an amount that exceeds the rate specified in subsection (b)(1) of this section. If under any such other obligation a lump-sum payment is made, such payment shall, for purposes of this paragraph, be deemed to be received over multiple years rather than received in a single year. The Secretary may, in the discretion of the Secretary, determine how to apportion such payment over multiple years.

(2) No benefits in case of death
No payment shall be made under subsection (a) of this section in compensation for loss of employment income subsequent to the receipt, by the survivor or survivors of an eligible individual, of benefits under section 239e of this title for death.

(3) Limit on total benefits
(A) In general
Except as provided in subparagraph (B)—
(i) total compensation paid to an individual under subsection (a) of this section shall not exceed $50,000 for any year; and
(ii) the lifetime total of such compensation for the individual may not exceed an amount equal to the amount authorized to be paid under section 239e of this title.

(B) Permanent and total disability
The limitation under subparagraph (A)(ii) does not apply in the case of an eligible individual who is determined to have a covered injury or injuries meeting the definition of disability in section 416(i) of this title.

(4) Waiting period
(A) In general
Except as provided in subparagraph (B), an eligible individual shall not be provided compensation under this section for the first 5 work days of loss of employment income.

(B) Exception
Subparagraph (A) does not apply if the period of loss of employment income of an eligible individual is 10 or more work days.

(5) Termination of benefits
No payment shall be made under subsection (a) of this section in compensation for loss of employment income once the eligible individual involves

(d) Benefit in addition to medical benefits
A benefit under subsection (a) of this section shall be in addition to any amounts received by

1So in original. Probably should be “involved”.
§ 239e. Payment for death

(a) Death benefit

(1) In general

The Secretary shall pay, in the case of an eligible individual whose death is determined to have resulted from a covered injury or injuries, a death benefit in the amount determined under paragraph (2) to the survivor or survivors in the same manner as death benefits are paid pursuant to the Public Safety Officers’ Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) with respect to an eligible deceased (except that in the case of an eligible individual who is a minor with no living parent, the legal guardian shall be considered the survivor in the place of the parent).

(2) Benefit amount

(A) In general

The amount of the death benefit under paragraph (1) in a fiscal year shall equal the amount of the comparable benefit calculated under the Public Safety Officers’ Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) in such fiscal year, without regard to any reduction attributable to a limitation on appropriations, but subject to subparagraph (B).

(B) Reduction for payments for lost employment income

The amount of the benefit as determined under subparagraph (A) shall be reduced by the total amount of any benefits paid under section 239d of this title with respect to lost employment income.

(b) Election in case of dependents

(1) In general

In the case of an eligible individual whose death is determined to have resulted from a covered injury or injuries, if the individual had one or more dependents under the age of 18, the legal guardian of the dependents may, in lieu of the death benefit under subsection (a) of this section, elect to receive on behalf of the aggregate of such dependents payments in accordance with this subsection. An election under the preceding sentence is effective in lieu of a request under subsection (a) of this section by an individual who is not the legal guardian of such dependents.

(2) Amount of payments

Payments under paragraph (1) with respect to an eligible individual described in such paragraph shall be made as if such individual were an eligible individual to whom compensation would be paid under subsection (a) of section 239d of this title, with the rate augmented in accordance with subsection (b)(2) of such section and with such individual considered to be an eligible individual described in subsection (c)(3)(B) of such section.

(3) Limitations

(A) Age of dependents

No payments may be made under paragraph (1) once the youngest of the dependents involved reaches the age of 18.

(B) Benefits secondary to other coverage

(i) In general

Any payment under paragraph (1) shall be secondary to the obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer), under any other law or contractual agreement, to pay compensation for loss of employment income or to provide disability benefits, retirement benefits, life insurance benefits on behalf of dependents under the age of 18, or death benefits.

(ii) Relation to other obligations

Payments under paragraph (1) shall not be made with respect to an eligible individual to the extent that the total of amounts paid with respect to the individual under such paragraph and under the other obligations referred to in clause (i) is an amount that exceeds the rate of payment that applies under paragraph (2). If
under any such other obligation a lump-sum payment is made, such payment shall, for purposes of this subparagraph, be deemed to be received over multiple years rather than received in a single year. The Secretary may, in the discretion of the Secretary, determine how to apportion such payment over multiple years.

(c) Benefit in addition to medical benefits

A benefit under subsection (a) or (b) of this section shall be in addition to any amounts received by an eligible individual under section 239c of this title.


§ 239f. Establishment

(a) United States Public Health Services Track

(1) In general

There is hereby authorized to be established a United States Public Health Sciences Track (referred to in this part as the “Track”), at sites to be selected by the Secretary, with authority to grant appropriate advanced degrees in a manner that uniquely emphasizes team-based service, public health, epidemiology, and emergency preparedness and response. It shall be so organized as to graduate not less than—

(A) 150 medical students annually, 10 of whom shall be awarded studentships to the Uniformed Services University of Health Sciences;

(B) 100 dental students annually;

(C) 250 nursing students annually;

(D) 100 public health students annually;

(E) 100 behavioral and mental health professional students annually;

(F) 100 physician assistant or nurse practitioner students annually; and

(G) 50 pharmacy students annually.

(2) Locations

The Track shall be located at existing and accredited, affiliated health professions education training programs at academic health centers located in regions of the United States determined appropriate by the Surgeon General, in consultation with the National Health Care Workforce Commission established in section 294q of this title.

(b) Number of graduates

Except as provided in subsection (a), the number of persons to be graduated from the Track shall be prescribed by the Secretary. In so prescribing the number of persons to be graduated from the Track, the Secretary shall institute actions necessary to ensure the maximum number of first-year enrollments in the Track consistent with the academic capacity of the affiliated sites and the needs of the United States for medical, dental, and nursing personnel.

(c) Development

The development of the Track may be by such phases as the Secretary may prescribe subject to the requirements of subsection (a).

(d) Integrated longitudinal plan

The Surgeon General shall develop an integrated longitudinal plan for health professions continuing education throughout the continuum of health-related education, training, and practice. Training under such plan shall emphasize patient-centered, interdisciplinary, and care coordination skills. Experience with deployment of emergency response teams shall be included during the clinical experiences.

(e) Faculty development

The Surgeon General shall develop faculty development programs and curricula in decentralized venues of health care, to balance urban, tertiary, and inpatient venues.

§ 239l–1. Administration

(a) In general
The business of the Track shall be conducted by the Surgeon General with funds appropriated for and provided by the Department of Health and Human Services. The National Health Care Workforce Commission shall assist the Surgeon General in an advisory capacity.

(b) Faculty

(1) In general
The Surgeon General, after considering the recommendations of the National Health Care Workforce Commission, shall obtain the services of such professors, instructors, and administrative and other employees as may be necessary to operate the Track, but utilize when possible, existing affiliated health professions training institutions. Members of the faculty and staff shall be employed under salary schedules and granted retirement and other related benefits prescribed by the Secretary so as to place the employees of the Track faculty on a comparable basis with the employees of fully accredited schools of the health professions within the United States.

(2) Titles
The Surgeon General may confer academic titles, as appropriate, upon the members of the faculty.

(3) Nonapplication of provisions
The limitations in section 5373 of title 5 shall not apply to the authority of the Surgeon General under paragraph (1) to prescribe salary schedules and other related benefits.

(c) Agreements
The Surgeon General may negotiate agreements with agencies of the Federal Government to utilize on a reimbursable basis appropriate existing Federal medical resources located in the United States (or locations selected in accordance with section 239(a)(2) of this title). Under such agreements the facilities concerned will retain their identities and basic missions. The Surgeon General may negotiate affiliation agreements with accredited universities and health professions training institutions in the United States. Such agreements may include provisions for payments for educational services provided students participating in Department of Health and Human Services educational programs.

(d) Programs
The Surgeon General may establish the following educational programs for Track students:

(1) Postdoctoral, postgraduate, and technological programs.

(2) A cooperative program for medical, dental, physician assistant, pharmacy, behavioral and mental health, public health, and nursing students.

(3) Other programs that the Surgeon General determines necessary in order to operate the Track in a cost-effective manner.

(e) Continuing medical education
The Surgeon General shall establish programs in continuing medical education for members of the health professions to the end that high standards of health care may be maintained within the United States.

(f) Authority of the Surgeon General

(1) In general
The Surgeon General is authorized—

(A) to enter into contracts with, accept grants from, and make grants to any non-profit entity for the purpose of carrying out cooperative enterprises in medical, dental, physician assistant, pharmacy, behavioral and mental health, public health, and nursing research, consultation, and education;

(B) to enter into contracts with entities under which the Surgeon General may furnish the services of such professional, technical, or clerical personnel as may be necessary to fulfill cooperative enterprises undertaken by the Track;

(C) to accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property made to the Track, including any gift, devise, or bequest for the support of an academic chair, teaching, research, or demonstration project;

(D) to enter into agreements with entities that may be utilized by the Track for the purpose of enhancing the activities of the Track in education, research, and technological applications of knowledge; and

(E) to accept the voluntary services of guest scholars and other persons.

(2) Limitation
The Surgeon General may not enter into any contract with an entity if the contract would obligate the Track to make outlays in advance of the enactment of budget authority for such outlays.

(3) Scientists
Scientists or other medical, dental, or nursing personnel utilized by the Track under an agreement described in paragraph (1) may be appointed to any position within the Track and may be permitted to perform such duties within the Track as the Surgeon General may approve.

(4) Volunteer services
A person who provides voluntary services under the authority of subparagraph (E) of paragraph (1) shall be considered to be an employee of the Federal Government for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and to be an employee of the Federal Government for the purposes of chapter 171 of title 28, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.

(2002-06-04)

(37 U.S.C. 2291)

§ 239l–2. Students; selection; obligation

(a) Student selection

(1) In general
Medical, dental, physician assistant, pharmacy, behavioral and mental health, public
health, and nursing students at the Track shall be selected under procedures prescribed by the Surgeon General. In so prescribing, the Surgeon General shall consider the recommendations of the National Health Care Workforce Commission.

(2) Priority

In developing admissions procedures under paragraph (1), the Surgeon General shall ensure that such procedures give priority to applicant medical, dental, physician assistant, pharmacy, behavioral and mental health, public health, and nursing students from rural communities and underrepresented minorities.

(b) Contract and service obligation

(1) Contract

Upon being admitted to the Track, a medical, dental, physician assistant, pharmacy, behavioral and mental health, public health, or nursing student shall enter into a written contract with the Surgeon General that shall contain—

(A) an agreement under which—

(i) subject to subparagraph (B), the Surgeon General agrees to provide the student with tuition (or tuition remission) and a student stipend (described in paragraph (2)) in each school year for a period of years (not to exceed 4 school years) determined by the student, during which period the student is enrolled in the Track at an affiliated or other participating health professions institution pursuant to an agreement between the Track and such institution; and

(ii) subject to subparagraph (B), the student agrees—

(I) to accept the provision of such tuition and student stipend to the student;

(II) to maintain enrollment at the Track until the student completes the course of study involved;

(III) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined by the Surgeon General);

(IV) if pursuing a degree from a school of medicine or osteopathic medicine, dental, public health, or nursing school or a physician assistant, pharmacy, or behavioral and mental health professional program, to complete a residency or internship in a specialty that the Surgeon General determines is appropriate; and

(V) to serve for a period of time (referred to in this part as the "period of obligated service") within the Commissioned Corps of the Public Health Service equal to 2 years for each school year during which such individual was enrolled at the College, reduced as provided for in paragraph (3);

(B) a provision that any financial obligation of the United States arising out of a contract entered into under this part and any obligation of the student which is conditioned thereon, is contingent upon funds being appropriated to carry out this part;

(C) a statement of the damages to which the United States is entitled for the student’s breach of the contract; and

(D) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this part.

(2) Tuition and student stipend

(A) Tuition remission rates

The Surgeon General, based on the recommendations of the National Health Care Workforce Commission, shall establish Federal tuition remission rates to be used by the Track to provide reimbursement to affiliated and other participating health professions institutions for the cost of educational services provided by such institutions to Track students. The agreement entered into by such participating institutions under paragraph (1)(A)(i) shall contain an agreement to accept as payment in full the established remission rate under this subparagraph.

(B) Stipend

The Surgeon General, based on the recommendations of the National Health Care Workforce Commission, shall establish and update Federal stipend rates for payment to students under this part.

(3) Reductions in the period of obligated service

The period of obligated service under paragraph (1)(A)(ii)(V) shall be reduced—

(A) in the case of a student who elects to participate in a high-needs specialty residency (as determined by the National Health Care Workforce Commission), by 3 months for each year of such participation (not to exceed a total of 12 months); and

(B) in the case of a student who, upon completion of their residency, elects to practice in a Federal medical facility (as defined in section 254e of this title), by 3 months for year 2 of full-time practice in such a facility (not to exceed a total of 12 months).

(c) Second 2 years of service

During the third and fourth years in which a medical, dental, physician assistant, pharmacy, behavioral and mental health, public health, or nursing student is enrolled in the Track, training should be designed to prioritize clinical rotations in Federal medical facilities in health professional shortage areas, and emphasize a balance of hospital and community-based experiences, and training within interdisciplinary teams.

(d) Dentist, physician assistant, pharmacist, behavioral and mental health professional, public health professional, and nurse training

The Surgeon General shall establish provisions applicable with respect to dental, physi-
(c) Elite Federal disaster teams

The Surgeon General, in consultation with the Secretary, the Director of the Centers for Disease Control and Prevention, and other appropriate military and Federal government agencies, shall develop criteria for the appointment of highly qualified Track faculty, medical, dental, physician assistant, pharmacy, behavioral and mental health, public health, and nursing student who, under regulations prescribed by the Surgeon General, is dropped from the Track in an affiliated school for deficiency in conduct or studies, or for other reasons, shall be liable to the United States for all tuition and stipend support provided to the student.


SUBCHAPTER II—GENERAL POWERS AND DUTIES

PART A—RESEARCH AND INVESTIGATIONS

§ 241. Research and investigations generally

(a) Authority of Secretary

The Secretary shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Secretary is authorized to—

(1) collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(2) make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(3) make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the advisory council to the entity of the Department supporting such projects and make, upon recommendation of the advisory council to the appropriate entity of the Department, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research;

(4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(5) for purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(6) make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(7) enter into contracts, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under sections 2353 and 2354 of title 10, except that determination, approval, and certification required thereby shall be by the Secretary of Health and Human Services; and

(8) adopt, upon recommendations of the advisory councils to the appropriate entities of the Department or, with respect to mental health, the National Advisory Mental Health Council, such additional means as the Secretary considers necessary or appropriate to carry out the purposes of this section.

The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate.

(b) Testing for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects; consultation

(1) The Secretary shall conduct and may support through grants and contracts studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. In carrying out this paragraph, the Secretary shall consult with entities of the Federal Government, outside of the Department of Health and Human Services, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct for such entity studies and testing of substances