

Office of Management and Budget, except as he may otherwise provide.

SEC. 2. The Surgeon General is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the function 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 209(a)(2)), or otherwise, of accepting voluntary resignations of commissioned officers of the Regular Corps or the Reserve Corps.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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".

SEC. 7. (a) Executive Order No. 10506 of December 10, 1953, entitled "Delegating Certain Functions of the President under the Public Health Service Act," is hereby superseded.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<sup>1</sup> (4) the Bureau of State Services, and<sup>2</sup> the Agency for Healthcare Research and Quality. The Secretary is authorized and directed to assign to the Office of the Surgeon General,<sup>3</sup> 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 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 adminis-

tered 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.

(July 1, 1944, ch. 373, title II, § 202, 58 Stat. 683; June 16, 1948, ch. 481, § 6(b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 103-43, title XX, § 2008(g), June 10, 1993, 107 Stat. 212; Pub. L. 106-129, § 2(b)(2), Dec. 6, 1999, 113 Stat. 1670.)

#### AMENDMENTS

1999—Pub. L. 106-129 substituted "Agency for Healthcare Research and Quality" for "Agency for Health Care Policy and Research".

1993—Pub. L. 103-43, § 2008(g)(2), inserted ", and the Agency for Health Care Policy and Research" in first sentence.

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.

1948—Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health" in cl. (2).

#### 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 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.

### § 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

<sup>1</sup> So in original. The "and" probably should not appear.

<sup>2</sup> So in original. Probably should be followed by "(5)".

<sup>3</sup> See 1993 Amendment note below.

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 295p 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.

(July 1, 1944, ch. 373, title II, §203, 58 Stat. 683; Feb. 28, 1948, ch. 83, §2, 62 Stat. 39; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 96-76, title III, §302(a), Sept. 29, 1979, 93 Stat. 584;

Pub. L. 111-148, title V, §5210, Mar. 23, 2010, 124 Stat. 614.)

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 training and 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."

1979—Pub. L. 96-76 inserted provisions relating to appointment and status of warrant officers.

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

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. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

REPORTS

Pub. L. 111-148, title V, §5701, Mar. 23, 2010, 124 Stat. 684, provided that:

"(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. 958, §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.

Memorandum of President of the United States, May 31, 2011, 76 F.R. 33117, 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 of the Public Health Service. Commissions issued under this delegation of authority may not be for a term longer than 6 months. Officers appointed pursuant to this delegation may not be appointed to the Ready Reserve Corps of the Public Health Service for a term greater than 6 months other than by the President or to the Regular Corps of the Public Health Service other than by the President with the advice and consent of the Senate. This authority may not be redelegated.

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 estab-

lished 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; or
- (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