

30, 1964, 29 F.R. 1637, as amended, set out as a note under section 202 of this title.

§ 248a. Closing or transfer of hospitals; reduction of services; Congressional authorization required

(a) Except as provided in subsection (b) of this section, the Secretary of Health and Human Services shall take such action as may be necessary to assure that the hospitals of the Public Health Service, located in Seattle, Washington, Boston, Massachusetts, San Francisco, California, Galveston, Texas, New Orleans, Louisiana, Baltimore, Maryland, Staten Island, New York, and Norfolk, Virginia, shall continue—

(1) in operation as hospitals of the Public Health Service,

(2) to provide for all categories of individuals entitled or authorized to receive care and treatment at hospitals or other stations of the Public Health Service inpatient, outpatient, and other health care services in like manner as such services were provided on January 1, 1973, to such categories of individuals at the hospitals of the Public Health Service referred to in the matter preceding paragraph (1) and at a level and range at least as great as the level and range of such services which were provided (or authorized to be provided) by such hospitals on such date, and

(3) to conduct at such hospitals a level and range of other health-related activities (including training and research activities) which is not less than the level and range of such activities which were being conducted on January 1, 1973, at such hospitals.

(b)(1) The Secretary may—

(A) close or transfer control of a hospital of the Public Health Service to which subsection (a) of this section applies,

(B) reduce the level and range of health care services provided at such a hospital from the level and range required by subsection (a)(2) of this section or change the manner in which such services are provided at such a hospital from the manner required by such subsection, or

(C) reduce the level and range of the other health-related activities conducted at such hospital from the level and range required by subsection (a)(3) of this section,

if Congress by law (enacted after November 16, 1973) specifically authorizes such action.

(2) Any recommendation submitted to the Congress for legislation to authorize an action described in paragraph (1) with respect to a hospital of the Public Health Service shall be accompanied by a copy of the written, unqualified approval of the proposed action submitted to the Secretary by each (A) section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) the area in which such hospital is located or which is served by such hospital, and (B) section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area.

(3) For purposes of this subsection, the term “section 314(a) State health planning agency” means the agency of a State which administers or supervises the administration of a State’s

health planning functions under a State plan approved under section 314(a) of the Public Health Service Act (referred to in paragraph (2) as a “section 314(a) plan”); and the term “section 314(b) areawide health planning agency” means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of that Act (referred to in paragraph (2) as a “section 314(b) plan”).

(Pub. L. 93-155, title VIII, §818(a), (b), Nov. 16, 1973, 87 Stat. 622; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

Section 314 of the Public Health Service Act, referred to in subsec. (b)(2), (3), is classified to section 246 of this title.

CODIFICATION

Section was enacted as part of the Department of Defense Appropriation Authorization Act, 1974, and not as part of the Public Health Service Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 92-585, §3, Oct. 27, 1972, 86 Stat. 1292, setting out procedure to be followed in closing or transferring control of hospitals or other health care delivery facilities of Public Health Service, prior to repeal by Pub. L. 93-155, §818(c).

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (a) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

§ 248b. Transfer or financial self-sufficiency of public health service hospitals and clinics

(a) Deadline for closure, transfer, or financial self-sufficiency

The Secretary of Health and Human Services (hereinafter in this subtitle referred to as the “Secretary”) shall, in accordance with this section and notwithstanding section 248a of this title, provide for the closure, transfer, or financial self-sufficiency of all hospitals and other stations of the Public Health Service (hereinafter in this subtitle referred to as the “Service”) not later than September 30, 1982.

(b) Proposals for transfer or financial self-sufficiency

Not later than July 1, 1981, the Secretary shall notify each Service hospital and other station, and the chief executive officer of each State and of each locality in which such a hospital or other station is located, that the Secretary will accept proposals for the transfer of each such hospital and station from the Service to a public (including Federal) or nonprofit private entity or for the achievement of financial self-sufficiency of each such hospital and station not later than September 30, 1982. No such proposal shall be considered by the Secretary if it is submitted later than September 1, 1981.

(c) Evaluation of proposals

The Secretary shall evaluate promptly each proposal submitted under subsection (b) of this

section with respect to a hospital or other station and determine, not later than September 30, 1981, whether or not under such proposal the hospital or station—

(1) will be maintained as a general health care facility providing a range of services to the population within its service area,

(2) will continue to make services available to existing patient populations, and

(3) has a reasonable expectation of financial viability and, in the case of a hospital or station that is not proposed to be transferred, of financial self-sufficiency.

Paragraph (1) shall not apply in the case of a proposal for the transfer of a discrete, minor, freestanding part of a hospital or station to a local public entity for the purpose of continuing the provision of services to refugees.

(d) Rejection or approval of proposal

(1) If the Secretary determines that a proposal for a hospital or other station does not meet the standards of subsection (c) of this section or if there is no proposal submitted under subsection (b) of this section with respect to a hospital or other station, the Secretary shall provide for the closure of the hospital or station by not later than October 31, 1981.

(2) If the Secretary determines that a proposal for a hospital or other station meets the standards of subsection (c) of this section, the Secretary shall take such steps, within the amounts available through appropriations, as may be necessary and proper—

(A) to operate (or participate or assist in the operation of) the hospital or station by the Service until the transfer is accomplished or financial self-sufficiency is achieved,

(B) to bring the hospital or station into compliance with applicable licensure, accreditation, and local medical practice standards, and

(C) to provide for such other legal, administrative, personnel, and financial arrangements (including allowing payments made with respect to services provided by the hospital or station to be made directly to that hospital or station) as may be necessary to effect a timely and orderly transfer of such hospital or station (including the land, building, and equipment thereof) from the Service, or for the financial self-sufficiency of the hospital or station, not later than September 30, 1982.

(e) Establishment of identifiable administrative unit

There is established, within the Office of the Assistant Secretary for Health of the Department of Health and Human Services, an identifiable administrative unit which shall have direct responsibility and authority for overseeing the activities under this section.

(f) Finding of financial self-sufficiency

For purposes of this section, a hospital or station cannot be found to be financially self-sufficient if the hospital or station is relying, in whole or in part, on direct appropriated funds for its continued operations.

(Pub. L. 97-35, title IX, §987, Aug. 13, 1981, 95 Stat. 603.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (a), is subtitle J of title IX of Pub. L. 97-35, §§985 to 988, Aug. 13, 1981, 95 Stat. 602, which enacted this section, amended sections 201, 249, and 254e of this title, and enacted provisions set out as notes under this section and section 249 of this title. For complete classification of this subtitle to the Code, see Tables.

Section 248a of this title, referred to in subsec. (a), was in the original "section 818 of Public Law 93-155", meaning section 818 of Pub. L. 93-155, title VIII, Nov. 16, 1973, 87 Stat. 622, which enacted section 248a of this title and repealed section 3 of Pub. L. 92-585, Oct. 27, 1972, 86 Stat. 1292.

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the Public Health Service Act which comprises this chapter.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 985 of Pub. L. 97-35 provided that:

"(a) Congress finds that—

"(1) because of national budgetary considerations, it has become necessary to terminate Federal appropriations for Public Health Service hospitals and clinics,

"(2) with proper planning and coordination, some of these hospitals and clinics could be transferred to State, local, or private control or become financially self-sufficient and continue to provide effective and efficient health care to individuals in the areas in which they are located,

"(3) a precipitous closure of these hospitals and clinics will preclude the possibility of such orderly transfer to entities which are willing and able to take over operations at such facilities and will cause unnecessary and costly hardships on the patients and staffs at such facilities and on the communities in which the facilities are located, and

"(4) it is in the national interest, consistent with sound budgetary considerations, to assist in the orderly and prompt transfer of such operations to State, local, or private operation or in the achievement of financial self-sufficiency where feasible.

"(b) The purposes of this subtitle [enacting this section, amending sections 201, 249, and 254e of this title, and enacting provisions set out as notes under section 249 of this title] are—

"(1) to provide for the prompt and orderly closure by October 31, 1981, of Public Health Service hospitals and clinics which cannot reasonably be transferred to State, local, or private operation or become financially self-sufficient and for the transfer or achievement of financial self-sufficiency by September 30, 1982, of those hospitals and clinics which can be so transferred or which can achieve such financial self-sufficiency, and

"(2) to provide for transitional assistance for merchant seamen whose entitlement to receive free care through Public Health Service hospitals and clinics is repealed and who are hospitalized at the end of fiscal year 1981 and require continuing hospitalization."

§§ 248c, 248d. Repealed. Pub. L. 104-201, div. A, title VII, § 727(a)(1), (2), Sept. 23, 1996, 110 Stat. 2596

Section 248c, Pub. L. 97-99, title IX, §911, Dec. 23, 1981, 95 Stat. 1386; Pub. L. 98-94, title XII, § 1252(g), formerly § 1252(f), Sept. 24, 1983, 97 Stat. 699, renumbered § 1252(g), Pub. L. 101-510, div. A, title VII, § 718(b)(1), Nov. 5, 1990, 104 Stat. 1586; Pub. L. 98-557, § 17(f)(1), Oct. 30, 1984, 98 Stat. 2868, related to continued use of former Public Health Service facilities.

Section 248d, Pub. L. 98-94, title XII, § 1252, Sept. 24, 1983, 97 Stat. 698; Pub. L. 98-557, § 17(f)(2), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 99-661, div. A, title VII, § 706, Nov.